

REQUEST FOR PROPOSAL

TARGETED SOLICITATION FOR THE BUILDINGS ENERGY EFFICIENCY PROGRAM AREA



RFP #400-00-401
State of California
California Energy Commission
July 2000

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- 6.1 Target Area Contract Preference Act form
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I. Executive Summary

1. What Is the Purpose of This RFP?

The California Energy Commission (Commission) is issuing this Request for Proposals (RFP) to select approximately three contractors that will lead a team of buildings-related energy efficiency research, development and demonstration (RD&D) “targeted programmatic” efforts under the Public Interest Energy Research (PIER) Program. This RFP contains information regarding:

- the meaning of the term “programmatic” solicitation,
- the areas being targeted,
- the eligibility requirements and evaluation process,
- instructions for preparing proposals to be submitted by interested Bidders,
- the format in which proposals must be submitted,
- information and materials to be included in a proposal, and
- Bidder’s other responsibilities.

Please note that the information and guidance provided in this RFP are applicable only to this solicitation.

2. How Is This RFP Organized?

This Request for Proposal (RFP) is organized into the following sections:

Section I	Executive Summary
Section II	PIER Background
Section III	Goals and Objectives of this RFP
Section IV	Proposal Format and Required Documents
Section V	Evaluation Process and Criteria
Section VI	Administrative Information

3. What Is A “Programmatic” Solicitation?

Since January 1, 1998, the Commission has administered California’s PIER Program, which funds various electricity-related energy RD&D activities not adequately provided by competitive or regulated markets.

This “programmatic” funding mechanism will provide program level support for interrelated public interest energy RD&D activities. Under this programmatic approach, individual Bidders are required to request funding for a collection of “linked” energy RD&D projects that address specific RD&D goals within a single proposal. The individual research projects within each program will be conducted under the overall management of a program director.

I. Executive Summary, Continued

The purpose of this programmatic approach is to accelerate advancements of science and technology by uniting teams of experts who can cut across organization boundaries and buildings-related energy uses to resolve specific barriers confronting high priority public interest energy issues. In addition, this programmatic approach will support diverse, but linked, RD&D activities, and encourage researchers to work collaboratively with each other when such collaboration increases overall research value.

Each programmatic proposal must address the Buildings Energy Efficiency issues and goals described in Section III, Buildings Issues, and must target at least one or more of the topic areas described in the next question.

4. What Areas Are Targeted In This Solicitation?

Proposals submitted under this solicitation must target reducing energy use through energy research in the following areas:

1. Residential technologies, strategies, or analyses related to comfort and energy efficiency
2. Residential envelope technologies (may be subset of Item 1)
3. Residential water heating

Proposals must include two or more technical projects. The proposed projects must address one or more of the targets identified. Research that develops solutions applicable to existing buildings, including multi-family and low income housing, and that is responsive to contractor/builder issues is specifically encouraged. (See Section III for additional information.)

5. What Is the Funding Level for This RFP?

Total funding for this solicitation is anticipated to be \$3M. Proposals may request no more than \$1M in funding. The Commission anticipates funding approximately three separate programmatic contracts as a result of this solicitation. No individual or organization may submit more than one proposal in response to this RFP. The Commission will award no more than one contract under this RFP to any one organization or entity. The total solicitation funding may be less than the \$3M anticipated, based on proposals achieving the minimum passing score.

The Commission reserves the right to eliminate specific projects from a programmatic proposal based on the following criteria:

- Project duplicates work currently funded by the Commission or others
- Project duplicates other projects which will be receiving PIER funding
- Project does not substantially address the identified targets
- Project does not demonstrate significant benefits to California electric ratepayers
- Project does not have added value when performed within the context of the programmatic proposal

I. Executive Summary, Continued

- Project is not market connected (does not demonstrate responsiveness to market needs and/or does not include participation of market partners in the research)
- Project does not address advancements to science or technology

6. Is Match Funding Required?

Match funding is evaluated and scored as one of the evaluation criteria. The amount of match funding provided by Bidders will be evaluated and scored relative to the type and amount of estimated benefits. Care should be taken to provide match funding in amounts proportional to expected private benefits compared to public benefits generated by the program. In other words, programs providing a higher percentage of private benefits and lower percentage of public benefits should contribute a higher percentage of match funds. For additional information regarding match funding, see Section IV, Proposal Format and Required Documents.

7. Is Repayment Required?

There are two options under this solicitation: (a) PIER funds will be provided with royalty payment provisions; or (b) through exemption, PIER funds will be provided without royalty payment provisions. Repayment is based on royalties once the Contractor generates gross revenues, or a subcontractor generates gross revenues that are paid to the Contractor.

8. What Is the Repayment Exemption?

At the discretion of the Commission, a research project may be exempted from the general royalty requirements of this programmatic solicitation if:

- (1) the research project in question is primarily expected to produce new knowledge and/or understanding of the subject under study, rather than any commercial application of that knowledge, within the next 10 years (e.g., basic research); and
- (2) the Bidder agrees to place all intellectual property developed from the program into the public domain.

To aid the Commission in processing this programmatic solicitation, all Bidders are required to indicate their choice of royalty funding mechanisms. Bidders must complete and submit Attachment 2, "Application and Program Information Form."

9. How Is the Royalty Payment Calculated?

SB 90, Public Resources Code Section 25620.4 provides the following with regard to "intellectual property" developed through the PIER program:

"(a) To the extent that intellectual property is developed under [the PIER program], an equitable share of the rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.

I. **Executive Summary**, Continued

"(b) The Commission may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The Commission may negotiate sharing mechanisms for intellectual property or benefits with award recipients."

Royalty Provisions and Exemption Option for this Solicitation

The statutory language cited above grants the Commission discretion with regard to the nature and extent of royalty provisions pertaining to persons or entities receiving RD&D funds through the PIER program. For this programmatic solicitation, the following royalty-related provision shall apply:

General Royalty Requirements for This Programmatic Solicitation

Except as otherwise provided in the "Royalty Exemption Option" discussed in the previous questions, all parties receiving RD&D funds from this programmatic solicitation will be required to repay to the PIER Program Trust Account one and a half percent (1 ½%) of the sale price of each project-related product or right for 15 years from the date of sale, as further defined in the terms and conditions of the PIER Program contract. Alternatively, there is a "Buyout Option" of 2 times the amount of the PIER funding award within two years from the date royalties are first due as explained further in the terms and conditions for this solicitation.

10. **What Is the RFP Process?**

1. Request for Proposals (RFP) is released.
2. Bidders submit questions to the Commission.
3. Commission conducts a Pre-bid Conference to respond to questions.
4. Commission distributes questions and answers received.
5. Bidders submit Notice of Intent to Bid.
6. Bidders submit detailed programmatic proposals by due date and time.
7. Commission conducts eligibility, completeness and feasibility screening of proposals. Proposals that do not pass the eligibility, completeness and feasibility screening criteria will not advance to the next stage of review. Proposals that pass these screening criteria will advance to the evaluation and scoring phase.
8. Scoring committee independently evaluates and scores proposals.
9. Proposals receiving passing scores are submitted to the Commission's Policy Committee. The Policy Committee reviews and recommends to the Commission how many of these programs to fund, beginning (in descending order) with the highest score.
10. The Commission approves the final contract awards to the winning Bidders.

I. Executive Summary, Continued

11. What Are the Key Activities and Dates?

The key activities and dates for this RFP are presented below. This schedule is tentative; please call the Contract Office to confirm dates.

ACTIVITY	DUE DATE
RFP Released	July 14, 2000
Questions Due on RFP	July 26, 2000 by 5:00 p.m.
Pre-bid Conference	July 27, 2000
Distribution of Questions / Answers	August 8, 2000
Notice of Intent to Bid Due	August 25, 2000
Publishing deadline for DVBE advertising	August 30, 2000*
Proposals Due (to Contracts Office)	September 14, 2000 by 5:00 p.m.
Interviews (as necessary)	October 20-31, 2000
Notice of Proposed Awards	November 7, 2000
Commission Business Meeting to Consider Approval of Contracts	March 7, 2001
Contract Start Date (Anticipated)	April 1, 2001
Contract End Date (Anticipated)	April 31, 2005

***If the first day of advertising is later than August 30, 2000, the Proposal will be rejected**

12. How Do I Respond To This RFP?

To respond to this RFP, you are encouraged to submit a Notice of Intent to Bid, and you must prepare a proposal and submit it in the form of an Administrative Section, a Technical Section and a Cost Section, according to the format described in Section IV.

- The Administrative Section shall include all the form documentation described in Section IV of this RFP.
- The Technical Section shall document the Bidder's qualifications and approach to perform the tasks described in this RFP, Sections III and IV.
- The Cost Section shall detail the Bidder's budget to perform such tasks.

13. How Can I Obtain Additional Information?

A Pre-Bid Conference will be held at the time and place listed below. Participation is optional. You may submit written questions up to the day before the Pre-Bid Conference and you may ask questions at the Pre-Bid Conference. The questions and answers will be mailed to all parties who requested a copy of this RFP. They will also be posted on the Commission's website at <http://www.energy.ca.gov/contracts/index.html>.

I. Executive Summary, Continued

To confirm the date, time and location of the Pre-Bid Conference, call (916) 654-4392, or refer to the Commission's website.

July 27, 2000
9 a.m. to 12 noon
California Energy Commission
Hearing Room A, First Floor
1516 9th Street
Sacramento, CA 95814
Telephone: (916) 654-4392

Questions must be submitted in writing to the Contract Officer listed below.

Peg Pigeon, Contract Officer
California Energy Commission
Contracts Office
1516 Ninth Street, MS-18
Sacramento, CA 95814
Telephone: (916) 654-7093
Fax: (916) 654-4423
Ppigeon@energy.state.ca.us

Verbal Communication

Any verbal communication with a Commission employee concerning this RFP is not binding on the State and shall in no way alter a specification, term, or condition of the RFP.

II. PIER Background

14. How Was the PIER Program Developed?

In 1996, Governor Wilson signed into law Assembly Bill (AB) 1890 (1996 California Statutes, Chapter 854) which provided authority for a fundamental restructuring of California's electric services industry. Among other things, AB 1890 added Section 381 to the Public Utilities Code, requiring that at least \$62.5 million be collected annually from investor-owned electric utility ratepayers for "public interest" energy RD&D efforts not adequately provided by competitive and regulated markets. Of this amount, the Commission administers \$61.8 million per year through the PIER program.

Since the funds for the PIER program are paid by specified investor owned utility (IOU) electricity ratepayers, the RD&D efforts supported by these funds *must* provide benefits to these electricity ratepayers. However, while the program will emphasize electricity-related RD&D activities, RD&D efforts that benefit other types of energy users may also qualify for PIER funding *if* such projects *also* provide benefits to electricity ratepayers as well.

Following a lengthy, statewide collaborative effort, the Commission adopted its "*Strategic Plan For Implementing The RD&D Provisions Of AB 1890.*" (Commission Publication No. P500-97-007, June 1997.) The Commission's RD&D Strategic Plan identified the overall mission of the PIER program as follows:

"The mission of the 'Public Interest Energy Research' program is to conduct public interest energy research that seeks to improve the quality of life for California's citizens by providing environmentally sound, safe, reliable and affordable energy services and products. 'Public interest energy research' includes the full range of research, development and demonstration activities that will advance science or technology not adequately provided by competitive and regulated markets."

15. PIER Planning and Implementation

Stage I Planning and Initial Solicitations

Stage I planning and implementation included the development of basic PIER policy goals and objectives and subsequent general solicitations. Through the Stage I planning process, the following policy goals were developed:

1. Improve energy cost/value of California's electricity
2. Improve environmental and public health costs/risk of California's electricity
3. Improve reliability/quality of California's electricity
4. Improve safety of California's electricity
5. Maximize market/economy connection

I. PIER Background, Continued

Stage II Planning and Implementation

Various PIER Stage II planning efforts were conducted during the latter half of 1998, and these have led to the development of specific program issues, goals and strategies for meeting the policy goals identified. Since 1999, the Commission has further enhanced the benefits of the PIER Program by focusing future funding awards *beyond* the general, project-level solicitations that were conducted in 1998.

During the Stage II process, the PIER Program was divided into the six program areas of:

1. Buildings Energy Efficiency
2. Industrial/Ag/Water Energy Efficiency
3. Renewable Energy Generation
4. Environmentally Preferred Advanced Generation
5. Energy-related Environmental Research; and
6. Strategic Energy Research.

While the PIER Stage II plans do not specify which technologies are appropriate for research, the Commission may provide technology examples to assist in putting the RD&D issues into context. The intent is for the research community to identify the best solutions for addressing the issues of greatest concern to the ratepayers and citizens of this state.

III. Goals and Objectives of this RFP

16. About This Section

This section explains the issues, goals and objectives of the Buildings Energy Efficiency program area in PIER.

17. Scope and Context

The Buildings Energy Efficiency program area covers energy efficiency-related topics concerning new and existing buildings in both the residential and non-residential sectors. To ensure that research results are adopted in the marketplace, this program area also seeks to work closely with utilities, industry, and other energy efficiency programs to improve understanding in market functioning and implement research that reflects knowledge of customer behavior and market functioning. This program area seeks to decrease energy use and/or increase energy efficiency in buildings within California through the development and improvement of building energy practices, strategies, tools, technologies and research in improved building performance evaluation methods.

As mentioned earlier, the intent of this targeted programmatic solicitation is to maximize the value of building energy RD&D efforts by supporting a program of “linked” energy efficiency research projects in the **residential buildings** area. Through this programmatic solicitation, the Commission seeks to encourage collaboration between diverse research projects where such collaboration will more effectively and efficiently address technical and market goals of the PIER Buildings Program as discussed in the PIER Buildings Research Plan.

A single individual or organization must submit an individual program proposal with a designated individual who will serve as the Program Director; however, individual proposals should involve a collaboration of diverse institutions, including research entities, private firms, industry participants, manufacturers and other market partners. Contracts will be developed between the Commission and the Bidders of the winning proposals.

18. Target Areas

Proposals submitted under this solicitation must target reducing energy use through energy research in the following specific areas:

1. Residential technologies, strategies, or analyses related to comfort and energy efficiency

Examples: “House as a system” approaches; Components and techniques to produce air tight, well ventilated, moisture resistive building envelopes; Occupant accepted thermal storage; Occupant accepted interfaces to building control systems; Metrics/Diagnostics to assess comfort in residences; Methods to incorporate comfort assessments in residential building simulation software; Quality construction.

III. Goals and Objectives of this RFP, Continued

2. Residential envelope technologies (may be subset of Item 1)

Examples: Substantial improvements in the energy efficiency of building materials and practices; Building envelopes that are an integral part of the conditioning and lighting systems; High albedo roof systems; Builder and occupant accepted house designs that integrate HVAC distribution systems into conditioned space; Strategies for reducing energy loss through envelope penetrations (such as diffusers, grilles, ceiling fans and can ceiling lights).

3. Residential water heating

Examples: Substantial improvements in the energy efficiency of electricity-based water heating (such as heat pump water heaters, use of phase change materials, highly efficient storage technologies and multi-functional devices); assessment of energy consequences and energy saving opportunities of hot water distribution systems in single and multi-family dwellings.

Proposals submitted must include two or more projects that specifically address the target areas identified above. Not all targets need to be addressed, and all projects may address the same target area. Research that develops solutions applicable to existing buildings, including multi-family and low-income housing, are specifically encouraged. These solutions may well be effective for both new and existing buildings; however, Bidders should address how existing building market actors will use the research products. In addition, this targeted solicitation encourages the proposals to be responsive to contractor/builder issues in California.

19. Buildings Issues

Commission staff developed a comprehensive Buildings Research Plan that discusses the Buildings Energy Efficiency program area in more detail. While the issues, goals, and objectives are reiterated in this RFP, for additional detail the Bidder may read the Buildings Research Plan. This document is available through the Commission's Web Site at <http://www.energy.ca.gov/research/PIER>.

Based on input from PIER Program stakeholders, the PIER Policy Advisory Council, and staff evaluations, the Commission identified four broad issues of key concern for the buildings program area. The following issues identify energy problems facing new and existing buildings in California, and present opportunities for the PIER Program to provide a significant positive impact through public interest energy research.

In addition to identifying the four key buildings issues, the Commission developed certain performance goals and other technical goals and objectives corresponding to each. The performance goals apply to the entire buildings sector; however, individual project goals should be significantly more aggressive. While the Commission does not identify specific technologies as research solutions, the PIER Buildings Research Plan does provide examples of technology areas that may address the issues, goals, and objectives identified.

III. Goals and Objectives of this RFP, Continued

The Bidder must propose the best program of solutions to address the identified issues, goals, and objectives discussed below:

Issue #1

Energy consumption is rapidly increasing in hotter, inland areas as new building construction increases in these areas.

Summary

Building loads and energy consumption for lighting, air conditioning, and other equipment, particularly in hotter inland areas during peak periods, can lead to system outages. Research is needed to investigate energy efficiency, load shifting, distributed generation, and real-time energy consumption information options in both new and existing buildings, particularly in the hotter “inland” areas of the state where much of California’s building construction is now occurring.

Performance Goal

Reduce energy used for cooling new and existing buildings by 5% in five years, 10% in ten years, and 15% in fifteen years.

Technical Goals and Objectives

- Develop information needed to characterize the issue and identify highest value future opportunities to mitigate the issue:
 - Develop, on an ongoing basis, future program plans that reflect most current research needs.
- Develop load reduction strategies and technologies:
 - Reduce cooling energy use in buildings through improvements/advancements in equipment, duct systems, alternatives to compressor cooling, envelope construction, lighting, and daylighting in both new buildings and in the operation, maintenance, or modification of existing buildings.
- Develop load management strategies and technologies:
 - Increase consumer choices for load management;
 - Increase options for customers to shift load to respond to time-of-use pricing; and
 - Create energy efficient design and construction strategies compatible with distributed heating, cooling, and power generation options.

III. Goals and Objectives of this RFP, Continued

Issue #2.

Development of energy efficient products and services needs to adequately consider non-energy benefits, such as comfort, productivity, durability, and decreased maintenance.

Summary

Comfort and productivity are primary drivers affecting investment in energy efficient products or strategies. Research responsive to energy efficiency, comfort and productivity is needed for both new and existing building applications to improve the design, adoption, and use of energy efficient products and strategies.

Performance Goal

Increase energy efficiency in new and existing buildings by 3% in five years, 5% in ten years, and 8% in fifteen years through the development of energy efficient products and strategies that include non-energy benefits.

Technical Goals and Objectives

- Develop information needed to characterize the issue and identify highest value future opportunities to mitigate the issue:

Develop, on an ongoing basis, future program plans which reflect most current research needs.

- Develop metrics to quantitatively predict and measure non-energy benefits such as durability, comfort, and productivity in energy related applications:

Enable designers, product developers, and product manufacturers to create energy efficient designs and products which account for non-energy benefits.

- Develop technologies which are both energy efficient and responsive to non-energy benefits:

Increase functionality and use of energy efficient products (lighting, daylighting, climate adaptive envelope components, and localized HVAC controls) through integration of non-energy considerations.

- Develop design methods, construction techniques, and strategies which address both energy efficiency and non-energy benefits:

Increase functionality and use of energy efficient designs (thermal distribution systems, daylighting, envelope design) through integration of non-energy considerations.

III. Goals and Objectives of this RFP, Continued

Issue #3

Building design, construction, and operation of energy-related features can affect public health and safety.

Summary

Energy-related building construction, operation of ventilation systems, and certain building materials may contribute to moisture or other indoor air quality (IAQ) problems. Research is needed to assist in constructing new buildings and operating existing buildings in a manner that is both energy efficient and healthy.

Performance Goal

Reduce building HVAC system energy consumption by 5% in five years, 10% in ten years, and 15% in fifteen years while simultaneously decreasing indoor air pollution and other health problems which impact energy use in buildings.

Technical Goals and Objectives

- Develop information needed to characterize the Issue and identify highest value future opportunities to mitigate the issue:
 - Develop, on an ongoing basis, future program plans which reflect most current research needs; and
 - Determine which building features or construction practices related to energy efficiency can be modified to mitigate IAQ or moisture issues.
- Develop metrics, sensors and controls to measure and improve health, safety, and energy use in buildings:
 - Enable designers, product developers, and product manufacturers to create designs and products which mitigate health and safety problems in buildings; and
 - Create options for sensing and controlling moisture and IAQ in buildings.
- Develop technologies and strategies to improve energy efficiency and enhance health and safety in buildings:
 - Improve ventilation design and building construction techniques which mitigate moisture and indoor air pollution.

III. Goals and Objectives of this RFP, Continued

Issue #4

Investments in energy efficiency can affect building and housing affordability and value, and the state's economy.

Summary

Research is needed to develop new technologies, including currently undefined innovative advancements, which can improve housing and residential building affordability and value through energy efficiency. In addition, buildings and equipment need to be optimized to California's varied climates, and improved construction techniques and tools are needed to reduce energy-related costs associated with the construction and operation of buildings.

Performance Goal

Increase energy efficiency in new and existing buildings by 5% in five years, 10% in ten years, and 15% in fifteen years through the development of energy efficient technologies and strategies which increase building value.

Technical Goals and Objectives

- Develop information needed to characterize the issue and identify highest value future opportunities to mitigate the issue:

Develop, on an ongoing basis, future program plans which reflect most current research needs.

- Develop software tools to improve energy efficient product design and implementation:

Improve effectiveness of building energy standards through development of more accurate design and compliance tools;

Improve HVAC performance and design through energy simulation software responsive to California climates; and

Improve energy efficient design through simplified design tools that are customized to California climates and include building economics model, and/or is compatible with standard industry design tools such as computer-aided design tools.

- Develop energy efficient technologies and strategies to increase building value:

Create opportunity for new innovations to improve building energy efficiency and affordability;

Increase energy efficiency and value in existing buildings through identification and development of highest value strategies and technologies in retrofit applications;

III. Goals and Objectives of this RFP, Continued

Increase building energy efficiency and value through the development of strategies responsive to current construction practices (including metal framing options); and

Create downsized equipment to match reduced building loads in multi-family applications.

- Develop strategies and tools to verify performance and establish value of investment:

Increase building performance through development of better tools for verifying and monitoring energy performance of buildings (commissioning and diagnostic tools); and

Increase performance of building components through development of tools for verifying installation quality of insulation, envelope sealing, and duct sealing.

- Develop systems approaches to maximize value through synergistic building and equipment designs:

Increase product value through the development of integrated, multi-functional equipment and appliances;

Increase building functionality and decrease operational costs through development of design and construction strategies applicable to California climates; and

Increase value of energy efficient strategies and products through integration with other building elements.

In all four issues, maximizing market connectedness remains a common goal. The research must be focused on those technologies and building practices that are responsive to market needs or can motivate greater market demand for energy efficiency. In some instances, this may first require development of a better understanding of market performance characteristics and market motivations.

The Commission will evaluate proposals to determine how well Bidders have addressed the end use energy efficiency targets, issues and goals identified. For a detailed description of the criteria the Commission will use in evaluating a proposal's market connectedness, see Section V of this RFP (Evaluation Process).

IV. Proposal Format and Required Documents

20. About This Section

This section provides Bidders with information about how to prepare a proposal in response to this RFP.

21. Notice of Intent to Bid

Bidders are encouraged to submit a "Notice of Intent to Bid" (Attachment 1) to the Commission on or before August 25, 2000, at the address listed in Section I. The Notice may also be faxed to the Commission's Contracts Office at (916) 654-4423. This Notice is not binding on prospective Bidders, but will be used to aid the Commission in planning for the resources needed to evaluate proposals that are subsequently submitted. All Notices received by the Commission will be kept confidential until the Notice of Proposed Awards is posted.

22. How Many Copies of the Proposal Must Be Submitted?

Bidders must mail or deliver an original proposal and twelve (12) copies of Volume 1 (Administrative Section) and Volume 2 (Technical and Cost Sections) and, if necessary, Volume 3 (Confidential Information), in separate, sealed envelopes, to the address given.

23. How Should the Envelopes be Labeled?

Bidders must submit the original proposal, the 12 copies of each Volume, including if necessary, the Confidential Information, in separate, sealed envelopes labeled with the following information depending upon the contents of the envelope:

- "Volume 1 - Administrative Section"
- "Volume 2 - Technical and Cost Sections"
- "Volume 3 - Confidential Information"

All envelopes must be labeled "Request for Proposal #400-00-401."

24. What Is the Required Format of Volume 1 – Administrative Section?

The following is a list and brief description of the items that *must* be submitted in Volume 1 of each proposal. Bidders should carefully read this format and content information (along with the eligibility, completeness and feasibility criteria, and the evaluation criteria presented elsewhere in this solicitation) to understand the relative importance of the information being requested in the proposal. Each section must be labeled and separated with tabs. Each section must be typed and the pages must be numbered. Spiral or comb binding is preferred.

IV Proposal Format and Required Documents, Continued

Volume 1 - Administrative Section

1. Cover Letter
2. Table of Contents
3. Application and Program Information Form (Attachment 2)
4. Executive Summary (Attachment 2.1)
5. Program Team List (Attachment 2.2)
6. Administrative Required Forms
 - a. Contractor Certification Clauses Package (Attachment 3)
 - b. Small Business Preference Certification letter, if applicable, (Attachment 4)
 - c. Completed Disabled Veteran Business Enterprise forms (Attachments 5.1 through 5.3)

Cover Letter

The Bidder shall submit a cover letter on company letterhead that includes:

- a summary of the Bidder's ability to perform the work described in the Work Statement, and
- a statement that the Bidder is willing to enter into a contract with the Commission to conduct the proposed program.

The cover letter must be signed by a person who has the authority to bind the Bidder to a contract.

Table of Contents

Each proposal must include a Table of Contents organized in the order cited previously and with page numbers for each section.

Application and Program Information Form

Complete the Application Form (Attachment 2), and have the person who is authorized to sign contracts for your company sign the original of this form as the "Signature of Authorized Official."

Each program on the Application Form must be identified by name with a brief explanation regarding why the program fits into this solicitation.

IV Proposal Format and Required Documents, Continued

Executive Summary

Prepare an Executive Summary (Attachment 2.1) of the program (no longer than two [2] pages) which describes:

- what is to be done on the program,
- the technology or science being developed and the unique products, services or knowledge that is expected to result therefrom,
- the overall goals and objectives of the program,
- the overall program cost,
- the amount of PIER funding being requested,
- the types and estimated amounts of public benefits to be provided by the program, such as the amount of electricity to be saved, the amount of electricity price reduction expected, the tons per year of pollutants reduced, the degree to which system reliability is enhanced, etc.

25. Program Team List

Provide a list (Attachment 2.2) of all members of your program team including the Program Contractor (i.e. the Bidder that will contract with the Commission should Bidder win an award), and a Program Director, as well as team members with whom you propose to subcontract. The list should be grouped into the following five categories:

- Category 1 - Program Contractor
- Category 2 - Program Director
- Category 3 - Technical Team Leads and Members (Bidder's staff or subcontractors)
- Category 4 - Administrative Staff
- Category 5 - Others

26. Are There Social Programs Available?

Yes, California Government Code Section 14835 et seq., requires that a five-percent preference be given to Bidders who qualify as a small business. To qualify for the small business preference points in the evaluation criteria, Bidders can be identified as a small business through either:

The State of California, Department of General Services, Office of Small Business Certification and Resources (OSBCR) formal certification processes. The Bidder must include a copy of the approved certification letter or application for certification, or

The Federal Government, Small Business Administration (SBA) self-certification guidelines.

IV Proposal Format and Required Documents, Continued

Bidders claiming small business preference must complete Attachment 2, Application and Program Information.

Small Business points will only be awarded if the Bidder, not a subcontractor, qualifies. A Bidder having a subcontractor qualified as a small business does not qualify the Bidder as a small business, or for small business points.

27. Are There Other Social Requirements of the Solicitation?

Yes. Public Contract Code Part 10115 et seq., and Title 2, California Code of Regulations, Part 1896.62 **require** all contractors who are not governmental agencies to pursue participation from Disabled Veteran Business Enterprise (DVBE) in their project. Bidders must either have **3 percent** DVBE participation in the project or must document a good faith effort to obtain DVBE participation. Failure to comply with this requirement by submitting complete DVBE forms in the proposal will result in rejection of the bid and disqualification from evaluation, scoring and contract award.

Use Attachments 5.1 through 5.3, and the instructions on the back of each form, to document DVBE participation and/or good faith efforts. It is important that Bidders thoroughly read the instructions provided on each DVBE form. The DVBE compliance process is as follows:

- ☒ If you are proposing to meet the 3% participation goals, complete and submit Attachment 5.1, and Attachment 5.2, with a copy of the DVBE certification letter(s) from OSBCR and acceptance letter from the DVBE.
- ☒ If you are proposing to partially meet the participation goals, complete and submit Attachment 5.1 and Attachment 5.2, and attach a copy of the DVBE certification letter(s) from OSBCR, as well as Attachment 5.3 to demonstrate the good faith effort you performed in your attempt to meet full participation. Your good faith effort must include advertising, which is explained in the Attachment 5.3 instructions.
- ☒ If you have no DVBE participation in your proposal, you must complete and submit Attachment 5.3 to demonstrate the good faith effort you performed in your attempt to meet participation. Your good faith effort must include advertising, which is explained in the Attachment 5.3 instructions.
- ☒ If you or a subcontractor have applied for DVBE certification, complete the appropriate Attachments as explained above, and include a copy of Attachment 4 as it was submitted to OSBCR.

IV Proposal Format and Required Documents, Continued

The forms to be used are:

Attachment 5.1 - Prime Bidder's Certification of Disabled Veteran-Owned Business Participation

Attachment 5.2-- List of Disabled Veteran-Owned Business Participation

Attachment 5.3 -- Documentation of Good Faith Efforts

28. What Is Required for Volume 2 – Technical and Cost Section?

Volume 2 **must** contain the technical and cost information that responds to the RFP and presented in the order listed below.

1. Program Description
2. Program Impacts
3. Program Work Statement (Attachment 9, Exhibit A)
 - a. Overall Program Goal
 - b. List of Program Elements
 - c. Summary Table – How Program addresses PIER Buildings Program Issues, Goals and Objectives
 - d. Program Organization
 - e. Element 1 – Program Administration (Bidder must fill in blanks and submit with Proposal)
 - f. Element 2- Technical Element Descriptions
 - 1) Problem Statement
 - 2) Element Goals and Performance Objectives
 - 3) Project List
 - 4) Project Work Statements
4. Schedule of Deliverables (Attachment 9, Exhibit B)
5. Detailed Budget (Attachment 9, Exhibit C)
6. Program Director and Program Team
7. Program Funding and Match Funding

Proposals submitted under this programmatic solicitation must be presented in a clear and concise manner, and kept to a maximum of forty (40) pages of text (exclusive of the program work statement and any forms required for the proposal or attachments offered by the Bidder), if possible. Bidders are strongly encouraged to limit the length of their proposals, while adequately covering the proposal requirements. With this in mind, proposals that exceed forty pages of text may be considered unresponsive to the evaluation criteria and receive lower scores.

Bidders who believe that supporting documentation or additional explanations are needed may attach such information in appendices to their proposal. However, there is no guarantee that such additional information will be read or otherwise considered by the evaluation teams.

IV Proposal Format and Required Documents, Continued

Volume 2 – Technical and Cost Section

29. Program Description

Introduction

Describe the proposed program of related research projects. Explain the overall goal of the program. Identify the market audiences who will use the results of the proposed program.

All project specifics must be described in the Program Work Statement.

Target Areas

Identify the target areas that will be addressed by this program. Explain why the proposed group of research projects will further residential energy efficiency R&D in these target areas.

Research Project Linkages

- The proposal must clearly explain how the proposed research qualifies as a “programmatic” proposal based on the definition provided in this document. The Bidder must discuss the relationship between the various projects of the proposed program and why the connection of diverse but related projects will result in research that most effectively and efficiently addresses the PIER program goals.
- The Bidder must discuss the added value of linking the proposed research projects. What is the added value of conducting the proposed research under a single program?
- The Bidder must discuss how data, research methods, results, etc. are shared between the research projects so that maximum benefits can be realized for the research funds expended.

30. Program Impacts

Buildings Energy Efficiency Program Issues, Goals and Objectives

Summarize the work to be performed, and explain how the research will contribute to the PIER Buildings Program performance goals. Identify which PIER Buildings Program issues, goals, and objectives each proposed program element addresses and how it does so. Emphasize how the proposed program will provide benefits to California’s electric ratepayers.

Program Connections to the Market

A key objective of the PIER Program is to conduct RD&D activities that produce results that will be applied in the real world, and will thus produce benefits for California’s electricity ratepayers. Consequently, all Bidders for PIER funds are

IV Proposal Format and Required Documents, Continued

expected to address how their RD&D results are, or can be, connected to the market, and the means by which the product, knowledge or service will get into the market.

31. Program Work Statement

To describe the program, adhere to the following hierarchy of research efforts, using this specific vocabulary:

PROGRAM
ELEMENT
PROJECT
TASK

Overall Program Goal

Restate the overall program goal. This section must briefly summarize the goals stated in the Program Description section.

List of Program Elements

List the titles of the elements that are contained in the proposed program. The program must include one administrative element and one or more technical elements.

Summary Table of how proposal addresses PIER Buildings Program issues, goals and objectives

Graphically summarize the degree to which the proposed research addresses each issue and goal of the PIER Buildings Program.

Program Organization

Provide an organizational chart that graphically illustrates the relationship between the Program Director and all of the team members. List all key team members and subcontractors.

32. Administration Element - Description

The first element presented in the proposal must be the Program Administration element. All activities conducted by the Program Director and the administrative staff must be scheduled and budgeted for in the administrative element. (Attachment 9, Exhibit A)

Program Management and Administration

Include project and task descriptions for program management, including the program kick-off meeting; quality, budget and schedule control; facilitation of program linkages; progress reports; final meeting and final report.

IV Proposal Format and Required Documents, Continued

Program Advisory Committee

At the beginning of the contract, the Contractor will form a Program Advisory Committee (PAC) with input from the Commission Contract Manager.

The Commission will use PAC's to solicit information and comment on an ongoing basis throughout the program to make the best use of program resources and increase the chance of program success. Input and direction from the PAC will feed into critical program reviews. The Bidder must include a preliminary list of PAC members in this section of the proposal. In addition, the Bidder must include project and task descriptions for all efforts related to the Program Advisory Committee.

Critical Program Reviews

Critical program reviews are meetings between the Contractor, Commission Contract Manager and other individuals selected by the Commission Contract Manager to assist in addressing whether there is satisfactory program progress to justify continuation of the program. Critical program reviews are included as a task in the work statement, (Attachment 9, Exhibit A).

A preliminary schedule and the administrative efforts planned to conduct the critical program reviews must be included in this section of the proposal.

33. Technical Element - Description

The technical element is a set of two or more linked research projects. There must be one or more technical elements contained within the proposal.

Problem Statement

Describe the problems that will be addressed within the technical element.

Key Barriers

Discuss the market and technology barriers that prevent the realization of energy efficiency opportunities in the target areas.

Advancement of Science or Technology

Discuss how each research project advances science or technology, especially with respect to resolving technical or market barriers that are not adequately addressed by the competitive or regulated markets.

IV Proposal Format and Required Documents, Continued

Need for PIER Funding

The proposal must clearly explain why there is a need for PIER funding of the proposed research element. In particular, the following must be addressed in this section:

- Need for additional research – Describe how each proposed research project represents the necessary next step in developing the technology or science. Discuss whether or not the proposed work duplicates other ongoing research in this area.
- Discuss the key technical, economic, environmental or other issues preventing the further development or commercialization of the proposed product or service at this time and the likelihood that the proposed research will be successful. Answer the question: Would the proposed research be conducted otherwise?

Technical and Economic Goals and Objectives

Provide quantitative technical goals for the technical element, along with the objectives to achieve these goals.

Provide quantitative economic goals for the technical element, along with the objectives to achieve these goals.

Project List

List the titles of the projects that are contained in the technical element.

Project Work Statements

Project Objective

For each technical project, provide a clear description of the work to be performed.

Prior Research

Discuss the completed research that is directly relevant to each project. Explain how the work planned extends or compliments the prior research.

IV Proposal Format and Required Documents, Continued

Baseline Conditions

Describe the current state of the technologies to be developed within this project. Discuss the current state of the residential building markets that will benefit from the research products proposed within each project. The baseline conditions listed here must allow for project level evaluation of the research products proposed, as well as the effect these products have on the targeted building markets.

Projected Outcomes

Quantitatively describe the anticipated results of the research proposed in each project. Include both the technological improvements expected as well as changes in the residential building markets that are anticipated.

Performance Metrics

Describe how the anticipated technical achievements and market benefits of the research proposed in each project can be quantified and measured. The performance metrics listed here must be appropriate for use in evaluating the research products' ability to meet the identified technical and economic goals. The measurements proposed in this section will be considered by the Commission in a later evaluation of the research conducted, if it is funded.

Project Work Plans

Separate each project into one or more discrete tasks. Each task must be clearly described and include specific objectives, a list of research activities, and a list of deliverables. Deliverables are the products to be developed during the course of the work and delivered to the Commission.

The detailed work plans for each project should identify the points in time to solicit input from the PAC. The work plans should also identify appropriate points to conduct Critical Program Reviews as well as identification of major milestones to be achieved during the course of the program.

Projects developing hardware or leading to hardware development should also include a task addressing production readiness, i.e., a production readiness plan. The production readiness plan should include:

- identification of critical production processes, equipment, facilities, personnel resources, and support systems that will be needed to produce a commercially viable product;
- internal manufacturing facilities, as well as supplier technologies, capacity constraints imposed by the design under consideration, identification of design critical elements and the use of hazardous

IV Proposal Format and Required Documents, Continued

or non-recyclable materials. The product manufacturing effort may include “proof of production processes”;

- a projected “should cost” for the product in production;
- the expected investment threshold to launch the commercial product; and
- an implementation plan to ramp up to full production.

The degree of detail in the production readiness plan discussion should be proportional to the complexity of producing the proposed product and its state of development. That is, Bidders who wish to use PIER funds to optimize more complex production manufacturing processes, or have manufacturing processes closer to being market ready, will be expected to provide a higher degree of detail on the manufacturing process than Bidders whose manufacturing process is relatively simple, or relatively far from being market ready.

34. Program Deliverables and Schedule

Program Deliverables

For each program element, describe the products to be developed during the course of the work. These must include such deliverables as reports (documentation of methods, conclusions, recommendations, etc.), photographic transparencies, workshops or presentations, as well as hardware and software products (prototypes, samples, mock-ups, demonstrations, etc.). These products should correspond to the information included in the work statement and schedule for each program element (Attachment 9, Exhibits A and B).

Schedule

Provide a schedule for each of the program elements that are being proposed for PIER funding. The schedule shall include the tasks, deliverables due dates, task budgets, monthly progress reports, annual program evaluations, and final report described in the work statement. In addition, please provide the estimated completion date for the program (Attachment 9, Exhibit B).

35. Detailed Budget

Program Budget

Using the categories identified below, prepare three itemized Exhibit C Budgets for each element by project and project task: an overall program budget which represents PIER and match funds, a PIER reimbursable budget that matches the requested PIER funds, and a match funded budget which documents all other sources of funding or in-kind services included in the cost of the program budget. Use the format (Excel files) in Attachment 9, Exhibit C to prepare these budgets.

IV Proposal Format and Required Documents, Continued

1. *Personal Services*

Include projected increases in hourly rates & fringe to cover each year of the contract period

- Direct Labor, including hourly rates, hours, classifications/names
- Fringe Benefits, percentage and applicable classifications

2. *Subcontractors*

List total cost by each subcontract, identifying those that are DVBE subcontractors, including hourly rates and fees for all individuals.

3. *Operating Expenses*

- Materials--Identify those materials that are estimated to be over \$5,000 in value and dedicated to the program.
- Equipment--Identify each piece of equipment that is estimated to be over \$5,000 in value proposed for purchase using PIER funds. Please Attachment 9, Terms and Conditions for restrictions that apply to the purchase of equipment with State funds. Subcontractors supplying equipment must be budgeted in the equipment category.
- Travel--Identify all travel expenses for the program for which reimbursement will be sought. Indicate the number of trips to be taken and the destinations and estimated costs. Please see Attachment 9, Terms and Conditions for travel reimbursement rates.
- Miscellaneous expenses--Any expense not included in any of the other categories.

4. *Fees* (attach audit documentation to verify rates)

You must include documentation in your cost proposal to support your General and Administrative rate and Overhead rate. If the Federal Defense Contracting Audit Agency (DCAA), any other governmental entity or private audit firm has audited and accepted your rates, please provide this documentation

- *Indirect Overhead Rate* -- list percentage, items covered and application to specific categories.
- *General and Administrative Overhead Rate*--list percentage, items covered and application to specific categories.

IV Proposal Format and Required Documents, Continued

- *Fee (profit) Rate* -- list percentage, basis and application to specific categories. Profit cannot exceed 10%. The Prime Contractor is not allowed to add profit to subcontractor invoices.

5. **Total Expenditures**

- Sum of all the categories.

Contract program expenses will be reimbursed in accordance with the program budget included in the proposal. PIER Program funds can only be used to reimburse the Contractor for expenses paid by the Contractor, and can only be paid after the Commission has received and approved the deliverables due for the billing period. Expenses to be paid with PIER funds cannot exceed the total amount of funds requested in the program proposal and listed in the budget section of the contract without prior Commission amendment and authorization. Only expenses incurred during the term of the contract can be reimbursed.

Budgets for Start-up Tasks and Reporting Activities

For the Administrative Element, the budgets itemized for the Project Start-up Tasks and the Reporting activities (using the Exhibit C form) should only include the efforts required for the Program Director and the administrative staff. **On Exhibit C, under the Project Technical Activities heading**, include the following:

- 1) Program Management and Administration;
- 2) Program Advisory Committee; and
- 3) Critical Program Review

The budgets itemized for each technical project (also using Exhibit C) should include the project lead and project staff efforts for the Project Start-up Tasks and Reporting Activities.

If the Commission eliminates a certain project out of the overall program proposal, the Commission will eliminate the project budget, as delineated in Exhibit C for that project. This will include both the Project Technical Activities as well as the Project Start-up Tasks and Reporting Activities for this particular project.

36. Program Funding & Match Funding Requirements

Discuss the appropriateness of the amount of PIER funding requested for the program, relative to the work proposed and the anticipated public benefits to California electric ratepayers.

Discuss the amount of match funding that will be brought to this program. Discuss the level of match funding relative to the private/public benefits that will be generated by the program. Explain why the proposed level of match funding is appropriate for the level and allocation of benefits (private vs. public).

IV Proposal Format and Required Documents, Continued

Programs whose results are more likely to lead to products and services that can be commercialized in the near future will generally need a higher percentage of matching funds than programs whose results are further removed in time from commercialization.

Discuss the sources of match funding (Bidder and/or team members, project partners, investors, lenders, equipment manufacturers, utilities, universities, government entities or others.) Discuss whether match funding is in cash or in-kind services.

Match funding can come from a variety of sources including the Bidder, program partners, equity investors, lenders, equipment manufacturers, utilities, universities, governments or others. Furthermore, match funding may be cash or in-kind contributions. (In-kind contributions include donated labor hours, equipment or facilities.)

Staff time, laboratory space, equipment, and most property can count as match funds as long as it is fully dedicated to the project for the time the property or equipment is required by the contract, and as long as the value of the contribution is based on documented market values or book values and is depreciated or amortized over the term of the project using standard accounting principles.

The Bidder must own the equipment provided as match funds, or the Bidder must provide the owner's written authorization to offer the equipment as match funds for the term of the contract. Property and equipment that do not qualify as match funds include such items as standard office supplies and property or equipment that is part of the Bidder's normal business activity (desks, typewriters, telephones, computers, software, etc.). In all cases, the Commission reserves the right to review and approve or disapprove the crediting of contributions and the amounts of those contributions as match funding.

Prior investments in the program do not qualify as match funds. Also, funding from other Commission programs or contracts does not qualify as match funding. The sources and amounts of match funding must be specified in each Bidder's budget.

Proposed match funding must be spent concurrently with PIER Program funds, and only on the program elements described in the proposal. Match funds can be spent once the Commission has approved an awarded contract at a scheduled Business Meeting. However, PIER funds cannot be spent until the Contractor signs the contract and the Department of General Services, Office of Legal Services approves the contract.

37. Program Director and Program Team

Program Director

Name the Program Director who will be the Contractor's person who is primarily responsible for coordinating and managing the proposed research program.

Address each of the following areas:

IV Proposal Format and Required Documents, Continued

- Describe the Program Director's capabilities in managing a diverse building energy research program. Include information on past experience in managing large, successful research programs. Document the Program Director's ability to successfully represent the State's energy policies in residential end-use areas.
- Describe the process the Program Director will take to effectively manage the proposed program to achieve program goals, including ensuring the development of quality products within the allocated budget and schedule.
- Describe how the Program Director will ensure that research is coordinated between research projects, including sharing information between projects as needed.
- Describe how the Program Director will monitor progress and develop recommendations for adjusting the research direction and focus based upon the results of research in other related projects.
- Describe how the Program Director will coordinate the reporting of information to the Commission's Programmatic Contract Manager, the PAC and the Commission staff.
- Describe how the Program Director will facilitate the efforts of the PAC to improve both the quality of the proposed research and the market adoption of the results.

Program Team

Describe the capabilities and experience of the proposed program team.

- Identify a primary person responsible for each research project, including identification of key personnel of the Contractor, key subcontractors, and key personnel of the key subcontractors.
- Describe the capabilities of the team members to conduct the technical work proposed in each research project, administer the research process, control costs, maintain project schedule, and move the products into the marketplace, with reference to past experiences.
- Describe the team's experience in managing projects with a high profile, and its capability to successfully represent the State's energy policies in residential end-use areas.
- Describe how the team will participate in program management and how the Program Director will be supported. Describe how project tracking, team communication, and budget management will be implemented.

IV Proposal Format and Required Documents, Continued

Resumes

Provide resumes for the Program Director, the project leaders, key project team members and key subcontractors.

38. Volume 3 – Confidential Information

The Commission will not accept or retain any proposals that are submitted *entirely* in confidence. However, all proposals will be kept confidential until the *Notice of Proposed Awards* is posted.

Bidders are discouraged from submitting any confidential information regarding their proposed programs under this solicitation. However, if the Bidder feels that certain confidential information would be important for the scoring committee to consider, or would clarify the status of the development of the technology prior to any awarded contract (i.e., benchmarking for royalty purposes), Bidders can submit such specifically requested and identified confidential information as a separate volume to the Commission. The separate confidential volume must accompany the non-confidential proposal, must be clearly marked “Confidential Information for RFP 400-00-401”, and must include the Bidder’s name and the project title. All specific requests for confidentiality will be evaluated pursuant to the Commission’s confidentiality regulations contained in Title 20, California Code of Regulations, Sections 2501-2505.

V. Evaluation Process and Criteria

39. About This Section

This section explains the overall evaluation process and the technical and policy evaluation criteria. It describes how the proposals will be evaluated for eligibility, completeness and fundamental scientific feasibility. It also describes the evaluation stages, preference points, and scoring of all proposals.

The entire evaluation process from receipt of proposals to the posting of the Notice of Proposed Award is confidential.

A Bidder's proposal will be evaluated and scored based on its response to the information requested in this RFP. During the evaluation and selection process, the Commission may interview a Bidder and/or conduct a site visit at the Bidder's facilities for the purpose of clarification and verification of information provided in the proposal. However, these interviews may not be used to change or add to the contents of the original proposal.

40. How Will My Proposal Be Screened?

Eligibility, Completeness and Feasibility Screening

All proposals will be initially screened for eligibility, completeness and fundamental scientific feasibility. In particular, proposals will be screened for completeness on the basis of whether or not the proposal contains sufficient information to enable a useful evaluation to be conducted. Proposals that fail the eligibility, completeness and feasibility screening will not be evaluated further under this RFP.

In addition to the Administrative response, proposals will be screened using the following criteria. To be eligible for possible funding under this programmatic solicitation, proposed programs must meet ALL of the following criteria. Proposals not meeting these criteria will not pass screening.

Disabled Veteran Business Compliance

The proposal must contain the appropriate forms to document DVBE participation in the program or to document good faith as described earlier in this RFP.

Target Areas Addressed

The program proposed must specifically address one or more of the three target areas identified in this RFP. The proposal must specifically address how the marketplace will be able to use the results of the research.

V. Evaluation Process, Continued

Buildings Program Issues, Goals and Objectives

The proposal must contain a clear and understandable description of the PIER Buildings Energy Efficiency issues and goals being addressed, and must clearly describe how the proposed RD&D activities will address these issues and goals.

The proposal must contain measurable goals and objectives.

Programmatic Proposal – Research Project Linkages

Each proposal must be a programmatic proposal with an identified Program Director, which includes multiple diverse, but linked, projects. Each programmatic proposal must address the Buildings Energy Efficiency issues and goals described above. Individual proposals that request funding for single projects are not eligible for this solicitation, and will be rejected from further evaluation. The Commission and its staff reserve the unfettered discretion to determine whether a proposal is for a “program” (and therefore eligible for this solicitation) or a “project” (and therefore not eligible for this solicitation). See Section VI for a listing of definitions.

Impacts and Benefits for California

The proposed program must provide clearly identified benefits to California’s electricity ratepayers in the residential building sector. The proposal must contain a clear and understandable description and estimated public benefits that the Bidder anticipates will result from the proposed program.

Program Connection to the Market

The program proposal must identify why the research is responsive to the needs of the market and identify the audience for the research results. The proposed program must also identify how it will involve market participants to speed the adoption of research results.

Program Need -- Advancement of Science and Technology

The proposal must provide a clear and convincing explanation of why PIER funding is appropriate and needed for the activities proposed. Specifically, the current status of each research project must be discussed, along with a description of what advancement of science or technology *not adequately addressed by the competitive or regulated markets* will be developed, and what technical or market barriers will be resolved.

Program Impact Assessment

The proposal must provide quantitative baseline conditions, projected outcomes and performance metrics for each research project included in the program. There must be a clear, and convincing explanation of how the performance metrics can be used to measure success in meeting the goals and objectives stated for the projects, elements and the program.

V. Evaluation Process, Continued

Program Work Statement

The proposal must contain the following seven items within the Program Work Statement section:

1. Overall Program Goal
2. List of Program Elements
3. Graphical Summary of PIER Buildings Program Issues and Goals Addressed
4. Graphical Summary of Program Organization
5. Element Work Statements
6. Schedules of Deliverables and Budget
7. Detailed Budgets

Technical Element

The proposal must contain the following four items within the Technical Element section:

1. Problem Statement
2. Technical and Economic Goals and Objectives
3. Project List
4. Project Work Statements

Project Work Statements

The proposal must contain the following six items within the Project Work Statement section:

1. Project Objective
2. Prior Research
3. Baseline Conditions
4. Projected Outcomes
5. Performance Metrics
6. Project Work Plan

Project Work Plans

The proposal must contain the following three items within the Project Work Plan section:

1. Task Objectives
2. Task Work Plans
3. Task Deliverables

Program Director and Program Team

An overall Program Director with experience in managing large research programs must lead the proposed program. In addition, the proposal must clearly identify the people making up the program team, their individual responsibilities in conducting the work for each research project, and their skills

V. Evaluation Process, Continued

and experience in the scientific and/or technical area(s) being addressed. The program team must consist of a collaboration of diverse institutions including research entities, private firms, and industry participants (including builders, manufacturers, designers, building operators, and other market customers). The proposal must clearly describe the communication, project tracking and budget management techniques the leaders will use to manage program work efforts. The steps the Project Director will take to engage and facilitate a Program Advisory Committee must also be described.

Program Funding and Match Funding

Each proposal must contain a budget that identifies:

- the total amount of funding being requested from the PIER Program,
- the overall program costs,
- the amount of match funds to be provided, and
- how the PIER funds will be expended during the contract in relationship to the milestones and overall products to be developed during the contract.

The proposed PIER budget must be commensurate with the level of work proposed and must be no more than \$1.0 million.

41. How Will My Proposal Be Scored?

Overview of The Evaluation Scoring Process

All proposals that pass the Eligibility, Completeness and Feasibility screening will be further evaluated and scored for merit. The Commission may use Commission evaluators, staff of other agencies, private consultants or other designated representatives of the State to evaluate the proposals. Both the technical and policy merits of each proposal will be evaluated.

A Commission Scoring Committee will evaluate and score proposals according to the evaluation criteria below. Proposals will be ranked in descending order based on an eligible proposal's total score. All proposals passing a minimum score of 80 will be considered for possible funding. The Commission's RD&D Committee will initially recommend how far down the ranked list of proposals scoring 80 or more it proposes to make awards. The full Commission can either accept the Committee's recommendations, or can adjust the "cut-off" lines higher or lower.

Programs above the Commission's adopted cut-off line cannot be "skipped-over" for funding. Programs that fall below the Commission's adopted cut-off line will not be funded at this time. However, if a Bidder decides to withdraw a proposal, or will not sign a proposed contract award within the allotted time, the Commission can disqualify that program from this award and may fund the next highest ranked program instead.

The Scoring Committee will give a score from zero to ten for each criterion. Each score will then be multiplied by a specific weighting factor to obtain the total

V. Evaluation Process, Continued

weighted score for that criterion. Scores will be assigned in accordance with the following guidelines:

<u>Score</u>	<u>Proposal Response</u>
0	Not Responsive to the Criterion
1-3	Response is Minimal
4-6	Responds satisfactorily to Most RFP Requirements
7-8	Responds satisfactorily to All RFP Requirements
9-10	Response is Specific and Superior, both quantitatively and qualitatively

42. What Criteria will be used for Technical Evaluation?

All eligible proposals that pass the Eligibility, Completeness and Feasibility screening will be further evaluated for merit based on the following technical and policy evaluation criteria:

1. ***Targeted Areas Addressed and Buildings Program Issues, Goals and Objectives***

(Weighting factor: 4; Maximum Weighted Score: 40)

The extent to which:

- a. The proposal responds to the targeted areas identified in Section II of this RFP.
- b. The proposal responds to the issues, goals, and objectives identified in Section II of this RFP;
- c. The proposed RD&D activities identify appropriate solutions to address the issues;

2. ***Programmatic Proposal – Research Project Linkages***

(Weighting factor: 5; Maximum Weighted Score: 50)

The extent to which the proposal demonstrates that:

- a. The research projects have significantly greater value when conducted together under a single research program than if they were conducted separately as independent projects;
- b. Specific project linkages have been identified and the proposed research takes advantages of these linkages to maximize research value; and,
- c. The proposed program includes diverse projects covering multiple technology areas.

V. Evaluation Process, Continued

3. ***Impacts and Benefits for California*** (Weighting factor: 6; Maximum Weighted Score: 60)

The extent to which the proposed program will develop products, services and/or knowledge that:

- a. Improves the affordability of electricity for California ratepayers by:
 - 1) improving the service, quality or output for a given cost or level of electricity consumption;
 - 2) increasing operation flexibility that can lead to improved energy value through load shifting or other technologies which can facilitate load shifting;
 - 3) improving consumers ability to exercise informed choices that can lead to improved energy/cost value; and
 - 4) increasing the variety of meaningful choices in services and technologies.
- b. Reduces the environmental and public health impacts from the use of electricity by:
 - 1) reducing the negative impacts from electricity consumption;
 - 2) improving the understanding of the impacts and benefits of electricity consumption;
 - 3) reducing the negative impacts of electricity usage through increasing the choices available to customers including energy efficiency, load shifting and load modification options; and
 - 4) increasing potential environmental and/or health benefits through the substitution of electrotechnologies for current energy/non-energy applications.
- c. Helps maintain or improve the reliability and/or quality of electricity used by Californians by:
 - 1) sustaining or increasing the reliability of electricity usage through strategies such as distributed generation,
 - 2) increasing the reliability / quality choices available to consumers, and
 - 3) reducing peak energy demand, particularly during “heat storms” in hot California summers.

V. Evaluation Process, Continued

- d. Provides benefits to California's local and state economies by:
 - 1) commercialization of useful products or services in the short, medium or long-term, resulting from the program;
 - 2) jobs created by the science, knowledge or commercialization of technology resulting from the program; and
 - 3) tax revenues or other benefits resulting from in-state jobs.

4. ***Program Connection to the Market***
(Weighting factor: 5; Maximum Weighted Score: 50)

The extent to which:

- a. The research proposed is demonstrated to be responsive to market needs as evidenced by specific market research, surveys and the Bidder's assessment of market drivers;
- b. The project plans can demonstrate that results will lead to commercialized or otherwise useful products and/or services;
- c. Commercialization is expected to occur in the short-term (1-5 years), medium-term (6-10 years), and/or long-term (11+ years);
- d. There is participation in the research from companies or industries that are committed to accelerating the transfer of the knowledge or products to market;
- e. Builders and/or building contractors active in the new and/or existing residential construction industry in California are included in the PAC and/or Program Team:
- f. The science and/or knowledge resulting from the projects will address the documented needs of appropriate scientific, policy-making and other communities, and a process is identified to insure the value of the science and/or knowledge is transferred to these communities;
- g. The program identifies the market for the research results, quantifies the size of the market and the realistic expected impact on the market if the program is successful, and justifies the reasonableness of these expected impacts; and
- h. The proposal identifies a pathway for research results to enter the market and potential team members who can facilitate implementation of the market strategies, and a specific plan for

V. Evaluation Process, Continued

getting the research results to decision makers through that pathway.

5. ***Program Need – Advances Science or Technology Not Adequately Addressed by Competitive or Regulated Markets***
(Weight factor: 5; Maximum Weighted Score: 50)

The extent to which the proposal:

- a. Discusses the current status of the proposed research, including production readiness issues as appropriate;
- b. Makes a case for the need for additional research. Bidders are expected to discuss recent related RD&D efforts in the area of residential buildings, and how this proposal will build upon or expand the current knowledge base;
- c. Responds to why the program elements will not be adequately addressed by the competitive or regulated markets;
- d. Discusses why PIER funding is necessary to advance the proposed science and/or technology.

6. ***Program Impact Assessment***
(Weight factor: 5 Maximum Weighted Score: 50)

The extent to which:

- a. The proposal documents and quantifies the baseline conditions of appropriate technologies as well as the targeted residential markets. These baseline conditions will be used in measuring the success or potential success in achieving technical, economic, and performance goals.
- b. The proposal identifies quantitative projected outcomes for the research projects, corresponding to changes in the documented baseline conditions. These projections should look beyond the research contract term to estimate building market impacts.
- c. The proposal identifies tangible performance measurements that will be used to gauge research impacts on the Buildings Energy Efficiency program performance goals. Bidders are expected to clearly explain the assumptions and methodologies that are appropriate for measuring the benefits of the research to California electric ratepayers.

V. Evaluation Process, Continued

7. ***Program Work Statement***

(Weighting factor: 8; Maximum Weighted Score: 80)

The extent to which:

- a. The proposal describes a plausible problem statement for the technical element. The problem statement includes key barriers, how the technical element will advance science and why PIER funds are needed
- b. The proposal demonstrates a clear, appropriate and complete plan for achieving the identified program goals and objectives and explains how the program addresses the problems described in the problem statement;
- c. The proposal describes the current state of research, including related research by the program team and by other researchers in the field, for the technologies, strategies and/or analyses to be furthered with this program.
- d. The proposal quantitatively describes the baseline conditions, projected outcomes and performance metrics for each technical project.
- e. The work schedule is logical and reasonably appropriates time with respect to sequence of tasks, time allocated per task, and the use of labor, equipment and facilities;
- f. The program team proposes to deliver interim and supporting products as well as principle deliverables, such as data, analytical methodologies, demonstrations and reports;
- g. The budget clearly identifies the allocation of how PIER funds will be used to perform the work; and
- h. The work statement includes the audience for each task deliverable and proposes methods for transferring the results to the market.

8. ***Program Director and Program Team***

(Weight factor: 5; Maximum Weighted Score: 50)

The extent to which:

- a. The team has demonstrated its capability to perform the program's technical work;
- b. The Program Director has experience and a proven track record for managing multi-million dollar buildings research programs;

V. Evaluation Process, Continued

- c. The Program Director is capable of administering the contract to control costs, maintain the program schedule, and provide quality control of the deliverables produced by the team;
- d. The team has the skills to help ensure market connectedness of the products and knowledge that result from the program; and,
- e. The organizational structure of the proposing team is structured to ensure the success of the research implementation and supports the sharing of information between program elements.
- f. The proposal includes a clear and methodical plan by which the Program Director will coordinate the reporting of information to all contract team members and stakeholders, including the Commission, the PAC, business partners, and the broader building research community.
- g. Potential members of the PAC have been identified and a preliminary schedule for PAC meetings is included;
- h. The proposal includes a clear and methodical plan by which the PAC will be facilitated to improve both the quality of the proposed research and the market adoption of the results.

9. ***Program Funding and Match Funding***
(Weighting factor: 5; Maximum Weighted Score: 50)

The appropriateness of the amount of PIER funding requested for the program based on:

- a. The extent to which the match funds are directly proportional to the ratio of private benefits compared to public benefits of the proposal;
- b. The proportion of the budget dedicated to direct expenses (labor and materials) relative to overhead and other administrative costs;
- c. The key issues being addressed by the program;
- d. The identified goals and objectives of the program;
- e. The value of public benefits not adequately addressed by regulated or competitive markets which the program will provide;
- f. The proposed program plan for meeting the identified goals and objectives;
- g. The type and magnitude of requested funding relative to the total program cost;

V. Evaluation Process, Continued

- h. The commitment of the Bidder team's own financial resources to complete the proposed program work; and
 - i. The extent to which the match funds / services proposed directly benefit the program goals.
- 10. ***Small Business Preference***
(Weighting factor: 2.5; Maximum Weighted Score: 25)
 - a. The Bidder is certified by California's Office of Small Business Certification and Resources (OSBCR) as a small business, or
 - b. The Bidder has self-certified pursuant to the Federal Government guidelines.

Additional points are also given to bidders who qualify under the Target Area Contract Preference Act (TACPA), the Local Agency Military Base Recovery Area Preference Request (LAMBRA), and/or the Enterprise Zone Act (EZA). The TACPA (Government Code section 4530 et seq.) provides a five percent preference to California-based companies that perform state contract work in a distressed area. The LAMBRA (Government Code section 7118) provides between one and five percent preference to companies that perform state contract work in a LAMBRA designated worksite, or companies that hire a workforce designated as LAMBRA qualified individuals. The Enterprise Zone Act (Government Code Section 7070 et seq.) provides an incentive for business and job development in distressed and declining areas of the state. More information on these programs is located in Attachment 6.1, 6.2, and 7, respectively.

Summary of All Evaluation Scores

- Weighting Factor Totals: 50.5
- Total Possible Points: 505
- Minimum Passing Score: 404 (80%)

VI. Administrative Information

43. About This Section

This section provides Bidders information on submitting a successful proposal, definitions of important terms, sources of information, submitting the proposal, confidential information, grounds for rejecting a proposal, and other administrative details.

44. What Are the Key Words And Their Definitions?

Important definitions for this RFP are presented below:

Application: How the technology developed is used to achieve a desired result or objective.

Baseline Conditions: A current quantitative snapshot of the technical research proposed and the building market segment potentially affected by the research products to be developed, e.g. current estimates of the annual electricity consumption and peak demand of existing California homes; a description of current CA home building practices; current thermal properties of home building materials; current level of energy efficiency in home building products.

Bidder: Respondent to this RFP

Commission: California Energy Commission

Contract: The agreement signed by all parties and approved by Department of General Services. A contract is defined in the Public Contracts Code as an agreement or joint development agreement to provide labor, services, material, supplies, or equipment in the performance of a contract awarded for or on behalf of the State of California.

Contract Budget: The proposed Commission-reimbursable expenditures AND the Contractor's match fund expenditures for that portion of the project covered by the contract term.

Contract Term: The start and end dates stated in the contract between the Commission and the Contractor. The project may be shorter than, coincide with, or extend beyond, the contract term. However, all Commission reimbursed and matched activities must occur during the contract term.

Critical Program Reviews: Meetings between the Contractor, Commission Contract Manager and other individuals selected by the Commission Contract Manager to assist in addressing whether there is satisfactory program progress to justify continuation of the program.)

Demonstration: Showing the operation or working of a completed product embodying a commercial configuration of a technology.

VI. Administrative Information, Continued

Development: Bringing into reality or activity a product embodying a commercial configuration of a technology.

DGS: Department of General Services

Element: A group of research projects linked together to improve information sharing, technical success, market acceptance and other technical and economic goals.

Performance Metrics: A measurement of the performance of a research product that allows the research product to be evaluated on its ability to meet the identified technical, economic and performance goals. This quantification will typically be conducted well past the contract term for this research program, and are not the responsibility of the Bidder. Commission staff will consider the suggested metrics listed here when they evaluate the effectiveness of this PIER Buildings program.

Program: A collection of several elements with the same set of overall goals and objectives, wherein each element contains multiple projects, and each project develops a unique product or service to help achieve the overall program goals and objectives. Within a program, the individual elements are separable and the research could be completed independently, e.g. development of energy efficient lighting, metering, and equipment options to address the issue of increasing energy consumption in hotter inland areas of California. While the program elements are separable, they should have specific linkages that lead to synergies that make the program more effective as a total than if the elements and projects were conducted separately.

Project: A *project* is an RD&D effort intended to advance science and/or is technology based regarding a specific set of goals and objectives. For example, designing, fabricating and testing an advanced lighting system to achieve a specific set of economic and technical goals is a single project. Similarly, testing a number of lighting systems (previously developed by means other than the requested PIER funding) to determine and compare their technical and/or economic performance is a single project. In the latter case, the science being developed is the comparative test information and analysis.

Projected Outcomes: The quantitative changes to Baseline Conditions (see above) expected from these research efforts. These projections should look well past the end of the research contract term to estimate building market impacts that are reasonably expected to occur as a result of the proposed research program.

Proposal: The formal written response to this RFP from the Bidder.

RFP: Request for Proposal, this entire document.

Research: The careful, systematic, and reasonably thorough study and investigation in a particular field of knowledge: to discover or establish facts or principles and to develop a product or process

VI. Administrative Information, Continued

State: State of California

Task: A distinct research effort that includes an objective, a list of research activities and a list of deliverables. Within this RFP, the task is the lowest level of research effort. Multiple **tasks** support a project; multiple **projects** support an element, and multiple **elements** support a **program**.

Technology: The general subject area where the product or innovation would be used.

45. What Is the Deadline For Submitting Proposals?

Your proposal must be delivered to the Commission Contracts Office by September 14, 2000, 5:00 p.m. In accordance with the California Public Contract Code 10377, the Commission will not accept late proposals delivered after 5 p.m. There are no exceptions to this law.

46. How Do I Deliver My Proposal?

A Bidder must deliver a proposal by one of the following three ways:

- U. S. Mail
- in person
- messenger service

Proposals submitted by facsimile (FAX) or electronic mail SHALL NOT be accepted in whole or in part under any circumstances. Proposals delayed by any of the above shall not be accepted if delivered after 5:00 PM on September 14, 2000.

47. Where Do I Deliver My Proposal?

All Proposals must be delivered by 5:00 PM on September 14, 2000, and addressed as follows to:

RFP No. 400-00-401
CALIFORNIA ENERGY COMMISSION
CONTRACTS OFFICE, MS-18
1516 NINTH STREET, 1ST FLOOR
SACRAMENTO, CA 95814

48. How Many Copies Do I Submit?

The Commission requires that an original and twelve (12) copies of each proposal be submitted at the time and place specified in this RFP.

VI. Administrative Information, Continued

49. How Is Confidential Information Treated?

From the beginning of the solicitation process, until the evaluation is complete and the Notice of Proposed awards is posted, the Commission is required to hold all information received from bidders confidential. However, Proposals and all submittals will become a public record after the Commission completes the evaluation and/or scoring process and the Notice of Proposed Awards is posted. After the posting of awards, confidential materials submitted by unsuccessful bidders will be destroyed and/or returned. The Commission will not retain confidential submittals from unsuccessful bidders. After the posting of awards, confidential materials submitted by successful bidders will be kept confidential, pending incorporation of confidentiality determination as part of the subsequent PIER contract as appropriate. A complete Application for confidentiality pursuant to Title 20, California Code of Regulations, sections 2505(a) and 2505(c)(2)(A) may be required prior to DGS approval of the contract at the option of the Commission. These confidentiality specifications and procedures are issued in accordance with Title 20, California Code of Regulations, section 2505(c)(2)(A).

50. What Types of Information Is Considered Confidential?

Consistent with its confidentiality regulations, and the California Public Records Act (Government Code Section 6250 *et. seq.*), the Commission generally will grant confidential treatment for information that is essential to understanding the proposal, clarifies the status of technology prior to contract work, or will be a contract deliverable. Examples include:

- Any information that is patent pending (until a patent has been approved), including patent application numbers
- Technical trade secrets (i.e. detailed technical drawings)
- Marketing/Business trade secrets (i.e. energy use data for an individual commercial or industrial facility, pending strategic partnerships with manufacturers)
- Economic/financial trade secrets (i.e. income tax records)

Conversely, the Commission generally will not allow confidential treatment for certain information. Bidders are cautioned against seeking confidentiality for the following types of information:

- Project descriptions/work statements (including task descriptions, schedule of deliverables and due dates)
- Proposed project budgets (PIER and match fund) including labor rates
- Disabled Veterans Business Enterprise information
- Names of employees, subcontractors and match fund participants.
- Test plans and reports
- Progress reports
- Final reports

VI. Administrative Information, Continued

The Commission will allow technical and business trade secrets to be reported in separate confidential addenda to test reports and final reports.

51. Are There Important Administrative Details I Should Know?

Disabled Veteran Enterprises

This contract is subject to a participation goal of three percent (3%) for certified California Disabled Veteran Business Enterprises as set forth in Public Contract Code Sections 10115, et seq. Refer to, Attachments 5.1 – 5.3.

Small Business Preference

California Government Code Sections 14835, et seq. require that a five- percent (5%) preference be given to any Bidder who is certified by the State of California as a small business. A Bidder who claims this preference must include a copy of its approved certification form in the Bidder's proposal.

Under this RFP, Bidders may also qualify for the small business points under the Federal self-certification process.

Bidders' Cost

The Bidder is responsible for the cost of developing a proposal, and this cost cannot be charged to the State.

52. Can the Commission Impose Conditions Or Limits On Awards?

Yes. The Commission reserves the right to condition, modify or otherwise limit any and all PIER funding awards made pursuant to this RFP so as to avoid unnecessary duplication or overlap of efforts within a proposal or between proposals receiving PIER funding.

53. Can the Commission Cancel This RFP?

Yes, if it is in the State's best interests, the Commission reserves the right to do any of the following:

- cancel this RFP
- amend this RFP as needed or
- reject any or all Proposals received in response to this RFP.

54. How Will I Know If the RFP Is Revised?

If the RFP must be changed or revised, the Commission will mail a formal written addendum to all parties in receipt of the RFP and will also post it on the

VI. Administrative Information, Continued

Commission's Web Site: www.energy.ca.gov and Department of General Services at [Web Site: www.dgs.ca.gov/cscr](http://www.dgs.ca.gov/cscr). The RFP can not be revised after proposals are received.

55. What Should I Do If I Find An Error In This Package?

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the document. Clarifications will be given by written notice of all parties who have obtained an RFP, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

56. What Are the Contract Requirements?

Term of the Contract

The term of the contract(s) is anticipated to be April 1, 2001 to April 31, 2005.

RFP in Final Contract

The content of this RFP will be incorporated by reference into the final contract.

Contract Terms and Conditions

Standard contract terms and conditions are appended to this programmatic solicitation (see Attachment 9, Terms and Conditions). It is the intention of the Commission to use these standard terms and conditions in all contracts awarded as a result of this solicitation.

Contract Cancellation

The Commission reserves the right to terminate any contract awarded through this RFP by providing 30-days notice to the successful Bidder.

No Contract Until Signed & Approved

No agreement between the Commission and the successful Bidder is in effect until the contract, signed by the Contractor, has been approved at a Commission Business Meeting and, if over \$75,000, approved by the Department of General Services, Office of Legal Services.

Audit

The Bureau of State Audits may audit a contract awarded under this RFP for a period of three years after the final payment or termination of the contract.

VI. Administrative Information, Continued

57. What If I Decide To Modify or Withdraw My Proposal?

Withdrawal/Modification

A Bidder may, by letter to the Contract Officer, withdraw or modify a submitted proposal before September 14, 2000, at 5:00 p.m. Proposals cannot be changed after that date and time.

Immaterial Defect

The Commission may waive any immaterial defect or deviation contained in a Bidder's proposal. The Commission's waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.

58. Am I Expected To Use Subcontractors?

Yes. In fact, this programmatic RFP expects teams of researchers from multiple organizations to be formed to conduct the proposed research program. The Bidder must identify the subcontractor(s) in its proposal. The Bidder must provide a summary of each subcontractor's qualifications, experience and duties that would be performed under the Work Statement found in Attachment 9, Exhibit A. If key or DVBE subcontractors are changed, the Contractor must request approval from the Commission Contract Manager before authorizing the new subcontractor to begin work. In addition, for DVBE subcontractor changes, the Contractor must submit updated Disabled Veteran Owned Business Enterprise forms. DVBE subcontractor changes are also subject to approval of the Commission DVBE Advocate and the Executive Director. The Contractor is responsible for the quality of all subcontractor work, and the Commission will assign all work to the Contractor.

PIER contracts with a private or public university as a subcontractor may include language from the terms agreed upon by the Commission and referenced in Request for Proposal 500-98-505, Attachment 7, amended on May 8, 1998, which addresses special terms applicable to universities.

59. How Will I know If I've Been Awarded A Contract?

A Notice of Proposed Awards (NOPA) will be posted for five (5) working days at the Commission's headquarters in Sacramento, and on the Commission's and the DGS' web site. In addition, each Bidder will be mailed a copy of the NOPA.

Upon completion of the five (5) day notice period, contract documents will be prepared and sent to successful Bidders for their signatures. The Commission will not consider any substantive changes to the contract "terms and conditions" contained in this RFP. If, for any reason, a successful Bidder decides not to proceed with a program, or cannot satisfy the solicitation or contract requirements, or does not sign the contract documents within a reasonable time, the Commission may eliminate that program from its award list and select the next highest ranked program for funding.

VI. Administrative Information, Continued

After the contract documents have been signed by the Bidders, the Commission will consider final approval of each contract at a publicly noticed Commission Business Meeting. More than one contract may be approved by the Commission at that time.

60. What Happens If My Proposal Is Unsuccessful?

After the NOPA is posted, each unsuccessful Bidder may request a debriefing conference with the Commission Contracts Office. The debriefing conference is an opportunity for an unsuccessful Bidder to learn why their particular proposal was not successful and may provide insight to improving proposal preparation for future solicitations.

61. What If I Want To Protest the Awards?

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Commission cancels the RFP, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code Section 10378.
- During the five working days that the NOPA is posted, protests must be filed with the DGS Legal Office and the Commission Contracts Office.
- Within five days after filing the protest, the protesting Bidder must file with the DGS and the Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Commission for the DGS hearing officer consideration.

62. What Happens To My Proposal Documents?

On the Notice of Proposed Award date, all proposals and related material submitted in response to this RFP become the property of the State and a part of the public record, unless the Bidder has submitted an application for confidentiality.

Confidential documents submitted by unsuccessful bidders will be returned to the bidder or destroyed by the Commission. Contractor identified and Commission designated confidential documents will be filed separately from the rest of the proposal and contract documents. Only authorized persons will have access to these designated confidential documents.

VI. Administrative Information, Continued

63. On What Grounds Will My Proposal Be Rejected?

A proposal shall be rejected if:

- The proposal is received any time after the exact time and date set for receipt of proposal per Public Contract Code, Section 10377 (a).
- It is labeled confidential in its entirety.
- It is considered nonresponsive to the California Disabled Veteran Business requirement.
- It is lacking a properly executed Certification Clauses Package.
- It is inconsistent or contains information intended to mislead the State in its evaluation and the attribute, condition, or capability of a requirement of this RFP.
- It does not indicate their choice of repayment in Attachment 2.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- There is a conflict of interest as contained in Public Contract Code Sections 10410, 10411, and 10365.5.

A proposal may be rejected if:

- It is not prepared in the format described herein.
- It is unsigned.
- It does not literally comply or contains caveats.

64. What Are My Responsibilities for Submitting A Proposal?

Bidders must take the responsibility to:

- carefully read this entire RFP
- ask the appropriate questions in a timely manner
- submit all required responses in a complete manner by the required date and time
- make sure that all procedures and requirements of the RFP are followed and appropriately addressed
- carefully reread the entire RFP before submitting a proposal.

VI. Administrative Information, Continued

This RFP package contains the:

- instructions governing the requirements for a fixed quotation to be submitted by interested Bidders,
- format in which the proposal information is to be submitted,
- list of documents to be included,
- requirements which must be met to be eligible for consideration, and
- Bidder's responsibilities.

ATTACHMENT 1

NOTICE OF INTENT TO BID*

RFP 400-00-401

RETURN TO CONTRACTS OFFICE BY AUGUST 25, 2000

1. Brief Program Title:

2. Organization Name & Address: _____

3. Contact Person: _____

Telephone: _____

Title: _____

Fax: _____

E-mail: _____

4. Market Sector. (Check the most relevant Buildings Sectors that apply)

_____ Residential

_____ Multi-Family

_____ Small Commercial

_____ Large Commercial

_____ Other Buildings

5. Draft Program Abstract (*No More Than 70 Words*):

* These notices will be held confidential until the due date for submitting proposals.

ATTACHMENT 2

Application and Program Information Form PIER Buildings Programmatic Solicitation

RFP 400-00-401

The Proposal must contain **Attachment 2**, which provides the Commission with some basic information about your business to help us process your proposal in each phase of the RFP. This attachment may be revised for each phase and must be signed and submitted with each phase submittal.

1. Bidder Information

Full Legal Name of Bidder _____

Business Address _____

(Street number and name)

(Mail stop/suite number)

(City)

(County)

(State)

(Zip code)

Nature of Business _____

Contact Person _____ Telephone _____

Title _____ FAX _____

Tax Payer ID Number _____ E-mail _____

2. Project Information

Brief Project Title _____

Project Work Site Location _____

3. Market Sector (Select and check the most appropriate Buildings Sectors that apply)

☐ Residential

☐ Multi-Family

☐ Small Commercial

☐ Large Commercial

☐ Other Buildings

4. Program Costs and Requested Funding

Amount of PIER funding requested: \$ _____

Amount of match funding being supplied: \$ _____

Total Program Costs: \$ _____

5. Type of PIER funding being requested (Please check just one)*

☐ PIER funds with royalty provisions

☐ PIER funds without royalty provisions

6. Business Type

Number of Employees _____ Year Established _____

How Long Under Current Ownership _____

Legal Form of Business: (check one)

☐ Sole Proprietorship

☐ Limited Partnership

☐ General Partnership

☐ Corporation

☐ Sub-Chapter S Corporation

☐ Limited Liability Company

☐ Other (identify) _____

If Corporation, attach Articles of Incorporation. If Partnership, attach Partnership Agreement. If Sole Proprietorship, attach Fictitious Name Filing immediately following Attachment A. If Limited Liability Company, attach Articles of Organization.

7. Small Business Preference Claim:

Are you certified as a small business by the State of California or have you applied for certification?

No ☐

Yes ☐ State Certification

☐ Already certified _____ (date)

☐ Application submitted to Office of Small Business Certification and Resources
_____ (date)

Are you self-certifying as a small business under the Federal guidelines?

No ☐

Yes ☐ Federal Self-Certification

Number of Employees: _____

Annual Receipts: \$ _____

Standard Industrial Classification (SIC) Code: _____

8. Management and Ownership Information

Bidders must provide the following management and ownership information

Management

Name	Title	Years w/Company
------	-------	-----------------

_____	_____	_____
-------	-------	-------

_____	_____	_____
-------	-------	-------

Ownership (list all corporate and partnership bidders)

Shareholder/Partner	% Ownership	SS#
<u>General or Limited</u>		

9. Corporate Status. Please answer the following questions. If you answer yes to any of the questions please provide a detail explanation.

YES

NO

- ☐ ☐ Has your business or you as a sole proprietor, ever filed bankruptcy or defaulted on any debts?
- ☐ ☐ Is your business or you as a sole proprietor, a party to any claim or lawsuit?

10. Disabled Veteran Business Participation Acknowledgement

I certify that I have read and understand the requirements of DVBE participation and understand my obligations in regard to DVBE. I also understand that failure to meet the requirements of the DVBE program in my Final Proposal will cause my Final Proposal to be rejected from the Phase 3 evaluation and scoring.

YES

☐

NO

☐

11. Confidentiality Requests: Are you submitting a Volume 3?

YES

☐

NO

☐

12. Program Abstract (No More Than 250 Words):

I hereby authorize the California Energy Commission to make any inquiries and obtain any financial information necessary for the purposes of screening my NOI. In addition, I authorize the California Energy Commission to make any necessary inquiries to verify the information I have presented.

I hereby certify to the best of my knowledge that I have read and understand the terms and conditions contained in this RFP package and that the information contained in this submittal and supplemental information is correct and complete.

Signature of Authorized Representative

Date

Typed Name

Title

Attachment 2.1

RFP 400-00-401

Executive Summary Form

Prepare an Executive Summary of the project (no longer than two [2] pages) which describes what is to be done on the program, the technology or science being developed (and the unique product or service that is expected to result therefrom), the overall goals and objectives of the program, the overall program cost, the amount of PIER funding being requested, and the types and estimated amounts of benefits to be provided by the program (e.g., the amount of electricity to be saved, the amount of electricity price reduction expected, the tons per year of pollutants reduced, the degree to which system reliability is enhanced, etc.

Attachment 2.2

RFP 400-00-401

PROGRAM TEAM LIST

CERTIFICATION CLAUSES

Std. CC (New 2-98)

ATTACHMENT 3

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Official's Name	
<i>Date Executed</i>	<i>Executed in the County of</i>
<i>Contractor's Signature</i>	
<i>Title</i>	
<i>Legal Business Name</i>	<i>Federal ID Number</i>

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Provide that every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to

CERTIFICATION CLAUSES

Std. CC (New 2-98)

comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. **CONFLICT OF INTEREST:** Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.
 - a. **Current State Employees (PCC 10410):**
 - 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
 - 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.
 - b. **Former State Employees (PCC 10411):**
 - 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
 - 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (PCC 10420) Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))
2. **LABOR CODE/WORKERS' COMPENSATION:** Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
3. **AMERICANS WITH DISABILITIES ACT:** Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
4. **CONTRACTOR NAME CHANGE:** An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

CERTIFICATION CLAUSES

Std. CC (New 2-98)

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. ANTITRUST CLAIMS:

- a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

CERTIFICATION CLAUSES

Std. CC (New 2-98)

- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
 - d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
9. VENDOR DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other government entity at the time of contract signing.

DVBE Application for Certification by OSBCR - Attachment 4

- o Each DVBE firm listed on Attachment 5.2 must be formally certified as a DVBE by the State Department of General Services, Office of Small Business Certification and Resources(OSBCR). The DVBE program is not a self-certification program. DVBE certification must be approved by OSBCR by the notice of award date of the contract to be counted in meeting participation goals.
- o A copy of the certification letter approved by, or a copy of the certification form (Attachment 4) submitted to OSBCR must be included in the proposal package.

To qualify as a DVBE, the DVBE must:

- 1) Be a California resident;
- 2) Own 51% of the firm and meet the requirements: in 3) and 4) below.
- 3) Provide to the OSBCR, by no later than 5:00 p.m. on the date on which the proposal is due, an Award of Entitlement from the United States Department of Veterans Affairs or the United States Department of Defense, issued within 6 months of the date on which certification is sought, which would certify or declare the existence of a service-connected disability, of at least 10 percent, at the time of application for or renewal of certification as a DVBE, and
- 4) Meet all requirements set forth in Article 6 (commencing with Section 999) of Chapter 6, Division 4 of the California Military code.

The OSBCR address and phone for DVBE information is:

Department Of General Services
Office of Small Business Certification and Resources
1531 I Street, 2nd Floor
Sacramento, CA 95814-2016
Phone No.: (916) 322-5060

The Internet addresses are:

OSBCR Homepage: <http://www.dgs.ca.gov/osbcr>

This internet site provides general information about the DVBE program and certification process.

DVBE list: <http://www.dgs.ca.gov/osbcr/dvbe/dvbe.htm>

OSBCR maintains a list of certified DVBEs. The list is separated into three main subject areas: Commodities, Construction, and Services. Within each subject area, there are more specific areas of expertise. The Energy Commission does not have separate DVBE lists.

ATTACHMENT 5.1

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

PRIME BIDDER'S CERTIFICATION OF DISABLED VETERAN-OWNED BUSINESS PARTICIPATION

See Instructions on Reverse

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a disabled veteran business enterprise complies with the relevant definition set forth in Section 1896.62(d) of Title 2, California Code of Regulations hereof.

In making this certification, I am aware of Section 12650 et seq. of the Government Code providing for the imposition of treble damages for making false claims against the State, and Section 10115.10 of the Public Contract Code making it a crime for intentionally making an untrue statement in this certificate.

COMPANY NAME/BIDDER (Please type or print)	RFP #
BIDDER'S SIGNATURE	DATE SIGNED
PRINTED NAME OF PERSON SIGNING	TITLE OF PERSON SIGNING (Business Owner/Chief Executive Officer)

NOTE: *If DVBE participation is proposed, this form must be completed and signed by the bidder or the proposal will be rejected.*

Bidder's Certification of DVBE Participation - Attachment 5.1

If the bidder is proposing to meet the DBVE participation goal, the bidder must sign a certification that each firm listed on Attachment 5.2 meets the legal definition of DVBE and the bidder is aware of the penalties for fraud.

- o Company Name - legal company name of prime bidder.
- o Bidder's Signature - person authorized (CEO) to sign.
- o Printed Name - printed name of person who signed.
- o Title - title of person signing - Business Owner, Chief Executive Officer, Manager.

Only the company (bidder) submitting the proposal must sign this certification.

ATTACHMENT 5.2
RFP 400-00-401

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

LIST OF DISABLED VETERAN OWNED BUSINESS PARTICIPATION

(1) Company Name	(2) Nature of Work	(3) Contracting With	(4) TIER	(5) Claimed 2) DVBE Value %	(6) Certification Letter from OSMB Attached
TOTAL				%	

NOTE: *If proposing participation goals, this form must be completed or your proposal will be rejected. See instructions on reverse of this form of the RFP.*

ATTACHMENT 5.2
RFP 400-00-401

DVBE Participation List – Attachment 5.2

If the participation goals are partially or fully met, Attachment 5.2 must be completed detailing the type of work, the companies (subcontractors and vendors) proposed for DVBE participation, and all other related information.

Col. 1 - DVBE company name - each DVBE company must be certified by or have submitted Attachment 4 (application for DVBE certification) to OSBCR by the proposal due date.

Col. 2 - Nature of Work - Type of Expertise, Technology, Service, Supplier, etc.

Col. 3 - Contracting with - Company name that the DVBE company is contracting with. For example, the bidder may be contracting with a company (XYZ, Inc.) who deals with a DVBE. Then XYZ, Inc. would be entered in Column 3.

Col. 4 - Tier - Contracting tier according to the following:

- 0 = Bidder;
- 1 = Primary subcontractor/supplier;
- 2 = Subcontractor/supplier of Level 1 subcontractor/ supplier;
- 3 = Subcontractor/supplier of Level 2 subcontractor/ supplier.

Col. 5 - Claimed DVBE, % value.

Percent of contract dollars committed to the DVBE listed. This percentage is the amount that will be paid to each DVBE company/vendor from the contract funds.

NOTE: This percentage is not the ownership of the company.

Col. 6 - Certification Letter attached.

This column is a checkpoint for you to ensure that all of the DVBE certification letters are in your proposal. If a certification letter is omitted, that DVBE company cannot be counted towards meeting the goals.

DVBE certification approval letter or a copy of the DVBE Application must be included in the proposal. DVBEs must be certified by the time of contract award in order to count in the participation goals.

You must clearly identify in the Work Statement, Tasks & Budget what services will be provided and the costs related to each DVBE.

ATTACHMENT 5.3

RFP 400-00-401

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
Contracts Office

DOCUMENTATION OF GOOD FAITH EFFORTS

Section 1. ORGANIZATION CONTACTS

List below the contacts made in an effort to identify potential DVBEs for participation in this contract. Include dates, times (if known), contact names and phone numbers.

Agency	Name	Phone	Date/Time
A. CA Energy Commission		(916) 654-4392	
B. Other State Agencies			
C. DVBE Organizations			

Section 2. ADVERTISING

List the trade papers and DVBE focused papers in which you advertised for participation in this contract. Include the dates of advertisement.

Trade	Ad Date	Publication Name	Copy Attached

NOTE: *If your proposal does not meet the 3% disabled veteran participation goal, this form must be completed to meet "Good Faith Efforts." These are the minimum requirements, therefore failure to fully complete each section of this form will result in rejection of the proposal as nonresponsive.*

Attachment 5.3 Continued

Section 3. DVBEs CONSIDERED

- A. Attach Solicitation Sample or Phone Conversation.
- B. List DVBEs that you contacted for participation in this contract along with the dates you sent the solicitations or called them.
- C. List DVBEs that you considered for participation in this contract and state the reasons the DVBEs were not selected.

Date Contacted	Name of Company	Nature of Work	Reason Considered But Not Selected	Date

NOTE: *If your proposal does not meet the 3% disabled veteran participation goal, this form must be completed to meet "Good Faith Efforts." These are the minimum requirements, therefore failure to fully complete each section of this form will result in rejection of the proposal as nonresponsive.*

ATTACHMENT 5.3 (CONTINUED)
INSTRUCTIONS FOR ATTACHMENT 5.3
DOCUMENTATION OF GOOD FAITH EFFORTS

If a bidder's proposal does not meet the participation goals, then the bidder must document its "good faith effort" to meet the participation goals. The minimum requirements for meeting good faith documentation under the law are CONTAINED in Attachment 5.3, therefore each item in Attachment 5.3 must be accomplished and documented. (Public Contract Code Part 10115.2) **IF THE PROPOSAL DOES NOT MEET THE 3% DVBE PARTICIPATION THEN, FAILURE TO PERFORM, COMPLETE AND SUBMIT ATTACHMENT 5.3 WILL BE CAUSE FOR REJECTION OF THE FINAL PROPOSAL AS NONRESPONSIVE TO THE GOOD FAITH EFFORTS REQUIREMENT.**

Information is available at:

DGS-DVBE Resources Packet – www.osmb.dgs.ca.gov/scrp/resource.pdf – 916-322-5060
California Energy Commission DVBE handbook – 916-654-4392

Part 1 - ORGANIZATION CONTACTS

List each contact by date, time, name, and phone number. Each bidder is required at a minimum to undertake steps A, B, C, and D, and to document all efforts under each step. [Public Contract Code Part 10115.2 (b)]. *The purpose of making each of these contacts is to obtain the resources/contact groups who can refer you to or provide you with lists of DVBEs.*

The DVBE list available from DGS consists of commodities and services (including consultant services).

Part 2 - ADVERTISING

Advertising is required as part of the good faith effort documentation.

- o Advertising must be made in at least two publications: one trade (e.g., work being performed in the project and reimbursed by the Commission) and one DVBE focused.
- o Both advertisements must appear not less than 14 calendar days prior to bid proposal submittal date, to allow reasonable time for consideration of DVBEs.
- o The advertisements for DVBE (including names of publications, dates of advertisement and copies of advertisements) must be documented in the bidder's proposal.

NOTE: *General circulation newspapers such as the Los Angeles Times or the Sacramento Bee are not acceptable, since neither one qualifies as a trade or focus publication.*

Part 3 - DVBE'S RESPONDING AND CONSIDERED

List and identify each DVBE that was contacted and state the reason why they were not selected. DVBE businesses considered must have appropriate qualifications for the work to be performed in the project.

DVBE participation is not limited to any specific portion of the project work. Participation may be from technical firms, but it may also come from nontechnical firms that are part of your daily business operations such as travel agencies, stationary supplies, delivery companies, etc.

NOTE: *The bidder must make actual contact with DVBEs. Services provided by DBVEs must be a reimbursable item under the project.*

SIGNATURE _____

DATE _____

BID NUMBER
AGENCY/DEPT.

This request form should be completed by bidders wishing to apply for TACPA preferences for this solicitation.

*See reverse for program
description and
instructions for completing
this form.*

SECTION 2: REQUEST FOR 5% WORKSITE PREFERENCE

SECTION 2: REQUEST FOR 5% WORKSITE PREFERENCE *List the bidding firm and all suppliers and subcontractors who will work with the bidder to fulfil the terms of the contract. Indicate those firms for which the bidder is requesting worksite preference eligibility by providing the requested information. Attach additional pages if needed.*

NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
TOTAL LABOR HOURS ESTIMATED					

SECTION 2: REQUEST FOR 1% - 4% WORKFORCE PREFERENCE

[illegible]

SECTION 3: REQUEST FOR 1% - 4% WORKFORCE PREFERENCE

- ☐ I request a 1% preference for hiring eligible persons to perform 5 - 9.99% of the total contract labor hours
- ☐ I request a 2% preference for hiring eligible persons to perform 10 - 14.99% of the total contract labor hours
- ☐ I request a 3% preference for hiring eligible persons to perform 15 - 19.99% of the total contract labor hours
- ☐ I request a 4% preference for hiring eligible persons to perform 20% or more of the total contract labor hours

SECTION 4: CERTIFICATION

I hereby certify under penalty of perjury, that (1) the bidder is a California based company as defined in the TACPA regulations, (2) at least 50% of the labor hours required to manufacture the goods and to perform a contract for goods, or 90% of the labor hours required to perform a contract for services shall be performed at the eligible distressed area worksite(s) claimed in Section 2, (3) if applying for workforce preference, the bidder shall hire persons with a high risk of unemployment to perform the required contract labor hours as requested in Section 3, and (4) all information provided in this request is true, correct, and complete. Any person falsely certifying, willfully providing false information, omitting information, or failing to comply with the TACPA statute is subject to penalties, fines and possible loss of State contracting eligibility.

BIDDER'S SIGNATURE		PRINTED OR TYPED NAME	
TITLE	AREA CODE & PHONE NUMBER		DATE EXECUTED

Program Description

The intent of the Target Area Contract Preference Act (TACPA) is to promote economic development and employment opportunities in distressed areas of the state by offering bidding preferences on qualified solicitations.

TACPA provides for two preferences: Worksite and Workforce.

Worksite Preference: Bidders may be eligible for a 5% bid preference on state goods and services contracts valued at more than \$100,000 if the worksite is located in a distressed area as designated by the State Office of Planning and Research.

TACPA allows state contracting officials to award the worksite preference when 50% of the labor hours required to manufacture the goods and to perform a contract for goods, or 90% of the labor hours required to perform a contract for services is performed at the approved worksites.

Workforce Preference: Companies qualifying for the 5% worksite preference may request an additional 1% - 4% workforce preference by certifying to hire a specified percent of their contract workforce from employees who are at high risk of unemployment as defined in California Government Code, Section 4532(f).

To request workforce preference, the bidder must first identify an eligible worksite.

TACPA bid preferences do not apply to contracts in which the worksite is fixed.

For more detail, see California Government Code, Section 4530 et seq. and California Code of Regulations, Title 2, Section 1896.30.

Other Bidding Preference Programs

- In addition to TACPA, the State has other bidding preference programs for which you might qualify:
- EZA - Enterprise Zone Act (up to a 9% bidding preference)
 - LAMBRA - Local Agency Military Base Recovery Area Act (up to a 9% bidding preference)
 - Small Business - Certified small businesses in California can receive a 5% bidding preference.

A non-certified small business that claims any combination of EZA, TACPA or LAMBRA preferences cannot use these preferences to displace a certified small business.

How the Bidding Preference Works

The TACPA bidding preference that you qualify for is used only for bid solicitation purposes, to a maximum of \$50,000. The preference does not alter the amount of the resulting contract.

If you qualify for more than one bidding preference (EZA, TACPA, LAMBRA, Small Business) the maximum preference allowed by law is 15% or \$100,000.

Reporting Requirements

Firms receiving TACPA preferences must report their labor hours. Reference the state contract on which you are bidding for specific reporting requirements.

How to Identify TACPA Locations

Contact the appropriate city or county planning and development office or your local Area Council of Governments and ask for the Census Tract and Block Group numbers for the firm or firms for which you are requesting worksite preference.

Then, contact the State of California, Department of General Services, Office of Small Business Certification and Resources at (916) 323-5478 and ask for the TACPA coordinator. The coordinator will tell you if the worksite is eligible.

Instructions for completing "Target Area Contact Preferences Act (TACPA) Request" on Reverse

- Section 1:** Enter the solicitation number and the name of the state department or agency offering the solicitation.
- Section 2:** Enter the requested information for 1) the bidding firm, and 2) all firms with whom the bidder will be subcontracting to perform the work required to complete this bid. You must list all firms, including the manufacturer, if applicable, not just those requesting worksite preference.

Firm's role in this bid: Enter the appropriate description indicating what job the listed firm will perform.

Tract and Block Numbers: See instructions above on how to obtain tract and block numbers.

Labor Hours Estimated: For each firm listed, estimate the total labor hours to be performed. Total the estimated hours for each firm and enter them into the box labeled "Total Labor Hours Estimated"

Criteria:

- A: The firm is located in a California eligible distressed area.
- B: The firm will establish a worksite in a California eligible distressed area.
- C: MAP REQUIRED. The firm is located in a census tract block that, when attached to an eligible distressed area, forms a contiguous boundary. If you enter "C", you must attach a map showing the relationship of the requested area to the distressed area.
- D: MAP REQUIRED. The firm will establish a worksite located in a census tract block that, when attached to an eligible distressed area, forms a contiguous boundary. If you enter "D", you must attach a map showing the relationship of the requested area to the distressed area.

- E: GOODS ONLY. The firm will purchase the contract goods from a manufacturer located in an eligible distressed area.
- F: GOODS ONLY/MAP REQUIRED. The firm will purchase contract goods from a manufacturer located in a census tract block that, when attached to a distressed area, forms a contiguous boundary. If you enter "F", you must attach map showing the relationship of the requested area to the distressed area.

Section 3: Select the appropriate box, indicating the percentage of workforce preference you are requesting. To request workforce preference, the bidder must first identify an eligible worksite.

Section 4: The Bidder must complete and sign the Certification.

This request form should be completed by bidders wishing to apply for LAMBRA preferences for this solicitation.

SECTION 2: REQUEST FOR 5% WORKSITE PREFERENCE *List the bidding firm and all suppliers and subcontractors who will work with the bidder to fulfill the terms of the contract. Indicate those firms for which the Bidder is requesting worksite preference eligibility by providing the requested information. Attach additional pages if needed.*

[illegible]

☐ I request a 1% preference for hiring eligible persons to perform 5 - 9.99% of the total contract labor hours

☐ I request a 2% preference for hiring eligible persons to perform 10 - 14.99% of the total contract labor hours

☐ I request a 3% preference for hiring eligible persons to perform 15 - 19.99% of the total contract labor hours

☐ I request a 4% preference for hiring eligible persons to perform 20% or more of the total contract labor hours

I hereby certify under penalty of perjury, that (1) the bidder is a California based company as defined in the LAMBRA regulations, (2) at least 50% of the labor hours required to perform a contract for goods, or 100% of the labor hours required to perform a contract for services shall be performed at the designated Local Agency Military Base Recovery Area(s) claimed in Section 2, (3) if applying for workforce preference, the bidder shall hire persons living within a Local Agency Military Base Recovery Area to perform the specified percent of total contract labor hours as requested in Section 3, and (4) all information provided in this request is true, correct, and complete. Any person falsely certifying, willfully providing false information, omitting information, or failing to comply with the EZA statute is subject to penalties, fines and possible loss of State contracting eligibility.

BIDDER'S SIGNATURE		PRINTED OR TYPED NAME	
TITLE	AREA CODE & PHONE NUMBER		DATE EXECUTED

Program Description	Other Bidding Preference Programs	Instructions for completing "LAMBRA" Preference Request on Reverse
<p>The intent of the Local Agency Military Base Recovery Area (LAMBRA) Act is to promote economic development and employment opportunities in designated LAMBRAS by offering bidding preferences on qualified solicitations.</p> <p>The LAMBRA Act provides for two preferences: Worksite and Workforce.</p> <p><i>Worksite Preference:</i> Bidders may be eligible for a 5% bid preference on state goods and services valued at more than \$100,000 if the worksite is located in a LAMBRA as designated by the State Trade and Commerce Agency.</p> <p>LAMBRA allows state contracting officials to award the bid worksite preference when 50% of the labor hours required to perform a contract for goods, or 100% of the labor hours required to perform a contract for services is performed at the approved worksites.</p> <p><i>Workforce Preference:</i> Companies qualifying for the 5% worksite preference may request an additional 1% - 4% workforce preference by certifying to hire a specified percent of their contract workforce employees from those designated as LAMBRA qualified individuals. (See Assembly Bill 3: Chapter 1012, 9/30/98).</p> <p>To request workforce preference, the bidder must first identify an eligible worksite.</p> <p>LAMBRA bid preferences do not apply to contracts in which the worksite is fixed.</p> <p>For more detail, see California Government Code, Section 7118 et seq., and California Code of Regulations, Title 2, Section 1896.100. et seq.</p>	<p>In addition to the LAMBRA Act, the State has other bidding preference programs for which you might qualify:</p> <p>TACPA - Target Area Contract Preference Act (up to a 9% bidding preference)</p> <p>EZA -Enterprise Zone Act (up to 9% bidding preference)</p> <p>Small Business - Certified small businesses in California can receive a 5% bidding preference.</p> <p>A non-certified small business that claims any combination of EZA, TACPA or LAMBRA preferences cannot use these preferences to displace a certified small business.</p> <p>How the Bidding Preference Works</p> <p>The LAMBRA bidding preference that you qualify for is used only for bid solicitation purposes, to a maximum of \$50,000. The preference does not alter the amount of the resulting contract.</p> <p>If you qualify for more than one bidding preference (EZA, TACPA, LAMBRA, Small Business) the maximum preference allowed by law is 15% or \$100,000.</p> <p>Reporting Requirements</p> <p>Firms receiving LAMBRA preferences must report their labor hours. Reference the state contract on which you are bidding for specific reporting requirements.</p> <p>How to Identify LAMBRA Locations</p> <p>Contact the State Trade and Commerce Agency at (916) 324-8211.</p>	<p>Section 1: Enter the solicitation number and the name of the state department or agency offering the solicitation.</p> <p>Section 2: Enter the requested information for 1) the bidding firm, and 2) all firms with whom the bidder will be subcontracting to perform the work required to complete this bid. You must list all firms, including the manufacturer, if applicable, not just those requesting worksite preference.</p> <p><i>Firm's role in this bid:</i> Enter the appropriate description indicating what job the listed firm will perform.</p> <p><i>Military Base Recovery Area Name:</i> See instructions above on "How to Identify LAMBRA Locations."</p> <p><i>Labor Hours Estimated:</i> For each firm listed, estimate the total labor hours to be performed. Total the estimated hours for each firm and enter them into the box labeled "Total Labor Hours Estimated."</p> <p><i>Criteria:</i></p> <p>A: The firm is located in a California designated LAMBRA.</p> <p>B: The firm will establish a worksite in a California designated LAMBRA.</p> <p>C: GOODS ONLY. The firm will purchase the contract goods from the manufacturer(s) located in a LAMBRA.</p> <p>Section 3: Select the appropriate box, indicating the percentage of workforce preference you are requesting. To request workforce preference, the bidder must first identify an eligible worksite.</p> <p>Section 4: The Bidder must complete and sign the Certification.</p>

This request form should be completed by bidders wishing to apply for EZA preferences for this solicitation.

*See reverse for program
description and
instructions for completing
this form.*

SECTION 2: REQUEST FOR 5% WORKSITE PREFERENCE

NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
NAME OF FIRM		FIRM'S ROLE IN THIS BID (Examples: Bidder, Manufacturer, Shipper, etc.)			
STREET ADDRESS	CITY	STATE	ZIP CODE	LABOR HOURS ESTIMATED	
TOTAL LABOR HOURS ESTIMATED					

SECTION 2: REQUEST FOR 1% - 4% WORKFORCE PREFERENCE

[illegible]

SECTION 3: REQUEST FOR 1% - 4% WORKFORCE PREFERENCE

- ☐ I request a 1% preference for hiring eligible persons to perform 5 - 9.99% of the total contract labor hours
- ☐ I request a 2% preference for hiring eligible persons to perform 10 - 14.99% of the total contract labor hours
- ☐ I request a 3% preference for hiring eligible persons to perform 15 - 19.99% of the total contract labor hours
- ☐ I request a 4% preference for hiring eligible persons to perform 20% or more of the total contract labor hours

SECTION 4: CERTIFICATION

BIDDER'S SIGNATURE		PRINTED OR TYPED NAME	
TITLE	AREA CODE & PHONE NUMBER		DATE EXECUTED

Program Description

The intent of the Enterprise Zone Act (EZA) is to promote economic development and employment opportunities in designated enterprise zones by offering bidding preferences on qualified solicitations.

EZA provides for two preferences: Worksite and Workforce.

Worksite Preference: Bidders may be eligible for a 5% bid preference on state goods and services contracts valued at more than \$100,000 if the worksite is located in an enterprise zone as designated by the State Trade and Commerce Agency.

EZA allows state contracting officials to award the bid worksite preference when 50% of the labor hours required to manufacture the goods and to perform a contract for goods, or 90% of the labor hours required to perform a contract for services is performed at the approved worksites.

Workforce Preference: Companies qualifying for the 5% worksite preference may request an additional 1% - 4% workforce preference by certifying to hire a specified percent of their contract workforce employees from a targeted employment area, or from enterprise zone eligible employees.

To request workforce preference, the bidder must first identify an eligible worksite.

EZA bid preferences do not apply to contracts in which the worksite is fixed.

For more detail, see California Government Code, Title 1, Division 5, Chapter 12.8, Section 707 et seq. and California Code of Regulations, Title 2, Section 1896.100.

Other Bidding Preference Programs

In addition to EZA, the State has other bidding preference programs for which you might qualify:

TACPA - Target Area Contract Preference Act (up to a 9% bidding preference)
LAMBRA - Local Agency Military Base Recovery Area Act (up to a 9% bidding preference)
Small Business - Certified small businesses in California can receive a 5% bidding preference.

A non-certified small business that claims any combination of EZA, TACPA or LAMBRA preferences cannot use these preferences to displace a certified small business.

How the Bidding Preference Works

The EZA bidding preference that you qualify for is used only for bid solicitation purposes, to a maximum of \$50,000. The preference does not alter the amount of the resulting contract.

If you qualify for more than one bidding preference (EZA, TACPA, LAMBRA, Small Business) the maximum preference allowed by law is 15% or \$100,000.

Reporting Requirements

Firms receiving EZA preferences must report their labor hours. Reference the state contract on which you are bidding for specific reporting requirements.

How to Identify Enterprise Zone Locations

Contact the city or county economic development office or the State Trade and Commerce Agency at (916) 324-8211.

Instructions for completing "Enterprise Zone Act Preference Request" on Reverse

Section 1: Enter the solicitation number and the name of the state department or agency offering the solicitation.

Section 2: Enter the requested information for 1) the bidding firm, and 2) all firms with whom the bidder will be subcontracting to perform the work required to complete this bid. You must list all firms, including the manufacturer, if applicable, not just those requesting worksite preference.

Firm's role in this bid: Enter the appropriate description indicating what job the listed firm will perform.

Enterprise Zone Name: See instructions above on “How to Identify Enterprise Zone Locations.”

Labor Hours Estimated: For each firm listed, estimate the total labor hours to be performed. Total the estimated hours for each firm and enter them into the box labeled “Total Labor Hours Estimated.”

Criteria:

A: The firm is located in a California designated enterprise zone

B: The firm will establish a worksite in a California designated enterprise zone.

C: GOODS ONLY. The firm will purchase the contract goods from the manufacturer(s) located in a California designated enterprise zone.

Section 3: Select the appropriate box, indicating the percentage of workforce preference you are requesting. To request workforce preference, the bidder must first identify an eligible worksite.

Section 4: The Bidder must complete and sign the Certification.

Attachment 8
RFP 400-00-401
CUSTOMER REFERENCES

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION
CONTRACTS OFFICE

CUSTOMER REFERENCES

ATTACHMENT 8

Provide a minimum of 4 references, use additional pages as needed.

Reference #1

Name of Organization	
Address	
Contact Name	
Contact Title	
Contact Phone Number	
Describe the services and products your firm provided to the organization.	

- ☐ Overall Program Budget
☐ PIER Reimbursable Expenditures
☐ Match Funds

ATTACHMENT 9, Exhibit C
Administrative Budget Task Detail**

Contractor Name
Contract Number

	Personal Services		Operating Expenses					Other		Total
	Direct Labor	Fringe Benefits	Sub-contracted Services	Materials	Equipment	Travel	Misc.	Indirect Overhead	G&A Overhead	
Project Start-Up Tasks										
Kick-Off Meeting										\$0
Match Fund Document										\$0
Identify Req'd Permits										\$0
Obtain Req'd Permits										\$0
Project Start-Up Totals	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Project Technical Activities										
(list technical tasks)										\$0
Production Readiness										\$0
Project Activity Subtotals	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Reporting Activities										
Monthly Reports										\$0
Final Report										\$0
Final Meeting										\$0
Report Activity Subtotals	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Direct Labor	Fringe Benefits	Sub-contracted Services	Materials	Equipment	Travel	Misc.	Indirect Overhead	G&A Overhead	Total
CEC-Reimbursable Totals	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Personal Services	Operating Expenses	Other	Grand Total
\$0	\$0		

THIS AGREEMENT, made and entered into this _____ day of _____, 20__00__, in the State of California, by and between State of California, through its duly elected or appointed, qualified and acting

TITLE OF OFFICER ACTING FOR STATE	AGENCY
Executive Director	State Energy Resources Conservation & Development Commission
, hereafter called t	
CONTRACTOR'S NAME	
, hereafter called t	

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter express does hereby agree to furnish to the State services and materials as follows: (Set forth service to be rendered by Contractor, amount to be paid Contrac time for performance or completion, and attach plans and specification, if any.)

1. CONTRACT PURPOSE

The purpose of this contract is to fund research, development and demonstration projects under the Energy Commission Public Interest Energy Research (PIER) Program. The contract will description. Specific tasks are detailed in the attached Exhibit A, "Work Statement."

2. CONTRACT TERM

The term of this contract shall be from _____. This contract is of no force or effect until signed by both parties, and approved by the Department of General Services.

CONTINUED ON _____ SHEETS, EACH BEARING NAME OF CONTRACTOR AND CONTRACT NUMBER.

The provisions on the reverse side hereof constitute a part of this agreement.
IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

STATE OF CALIFORNIA		CONTRACTOR			
AGENCY		CONTRACTOR (If other than an individual, state whether a corporation, partnership, etc.,			
State Energy Resources Conservation and Development Commission					
BY (AUTHORIZED SIGNATURE)		BY (AUTHORIZED SIGNATURE)			
▷		▷			
PRINTED NAME OF PERSON SIGNING		PRINTED NAME AND TITLE OF PERSON SIGNING			
Cheryl Raedel					
TITLE		ADDRESS			
Manager, Contracts Office					
AMOUNT ENCUMBERED BY THIS DOCUMENT	PROGRAM/CATEGORY (CODE AND TITLE)		FUND TITLE		Department of Genera Use Only
	(OPTIONAL USE)				
	ITEM	CHAPTER	STATUTE	FISCAL YEAR	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT					
TOTAL AMOUNT ENCUMBERED TO DATE					
\$ 0.00					
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.		B.R. NO.	
SIGNATURE OF ACCOUNTING OFFICER				DATE	
▷					

☐ CONTRACTOR ☐ STATE AGENCY ☐ DEPT. OF GEN. SER. ☐ CONTROLLER ☐

AM. NO.

IFICATION NUMBER

the State, and

the Contractor.

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il Services

ATTACHMENT 9

STANDARD CONTRACT TERMS AND CONDITIONS

3. CONTRACT CONTENTS

This contract consists of the paragraphs listed below and attached exhibits which are hereby expressly incorporated herein.

1. Contract Contents
2. Contract Purpose
3. Contract Term
4. Definitions
5. Payments to Contractor
6. Travel and Per Diem
7. Purchase of Equipment
8. Project Budget Revision
9. Contract Management
10. Program Management
11. Annual Evaluation
12. Standard of Performance
13. Subcontractors and Subcontractor Agreements
14. Reporting
15. Recordkeeping, Cost Accounting and Auditing
16. Business Activity Reporting
17. Review and Notice of Conflicting Terms
18. Confidentiality
19. Intellectual Property Items Developed Prior to this Contract
20. Rights of Parties Regarding Intellectual Property
21. Royalty Payments to Commission
22. Notices to Parties
23. Disputes
24. Stop Work
25. Termination
26. General Terms and Conditions

- | | |
|------------|---|
| Exhibit A | Work Statement |
| Exhibit B: | Task Deliverables, Schedule |
| Exhibit C: | Budget |
| Exhibit D: | Contract Contacts – Commission and Contractor |
| Exhibit E: | Confidential and Intellectual Property List |

4. DEFINITIONS

- A. ***Affiliate of the Contractor*** means any natural person, corporation, partnership, joint venture, sole proprietorship or other business entity directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the Contractor. The term "control" (including the terms "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. For purposes of this contract, it is presumed that ownership or control of the voting power of more than fifty percent (50%) of the voting stock or partnership interests in an entity constitutes control of that entity.
- B. ***Contract Budget*** refers to Commission reimbursable and Contractor's matching fund expenditures for that portion of the project covered by the contract.
- C. ***Contract Period*** is the length of this contract between the Energy Commission and the Contractor. The Contractor's "project" may coincide with or extend outside the "contract period."
- D. ***Date*** means calendar date.
- 1) ***Contract Start Date*** is the date Commission reimbursable expenses can begin after the contract document is signed by the Department of General Services.
- 2) ***Contract End Date*** is the last date Commission reimbursable expenses can be incurred and is the expiration date of the contract.
- E. ***Economic Benefit*** for a project co-funded using Energy Commission funds means the realization of economic gain or other tangible benefits by the Contractor or its affiliates (except bona fide third party purchasers of Contractor's commercial products) through the use of project-related products and rights, including but not limited to, operation, sale, distribution or manufacturing, or by any other transaction, including but not limited to, grant, rent, loan, equity, option, transfer, license or other fee, or by otherwise disposing of the project-related products and rights.
- The Commission may rely upon professional accounting opinion in making a final determination of the dollar value of gross revenue, and such determination shall be the basis for calculating the royalty payment due the Commission.
- F. ***Equipment*** is defined as having a useful life of at least one year, having an acquisition unit cost of at least \$5,000, and purchased with Commission funds. ***Equipment*** means any products, objects, machinery, apparatus, implements or tools purchased, used or constructed within the project, including those products, objects, machinery, apparatus, implements or tools from which over thirty percent (30%) of the equipment is composed of materials purchased for the project.

For purposes of determining depreciated value of equipment used in the contract, the project shall terminate at the end of the normal useful life of the equipment purchased, funded and/or developed with Commission funds. The Commission may determine the normal useful life of such equipment.

- G. **Financial Statements** means balance sheets, statements of operations, statements of cash flows, and capital statements.
- H. **Gross Revenues** means the gross sales price, rentals and other amounts received by Contractor from or on account of the sale, lease, or other transfer or use of Project-Related Products and Rights, less sales tax paid. Gross Revenues shall be determined as above and in accordance with generally accepted accounting principles and any economic benefit.
- I. **Match Fund Participant** means any party which supplies match funds to the project.
- J. **Materials** means the substances used in constructing a finished object, commodity, device, article or product.
- K. **Otherwise Disposing Of** means (1) project-related products and rights not sold but delivered by the Contractor or its affiliates to others regardless of the basis for compensation, if any, and (2) project-related products and rights put into use by the Contractor or any third party for any purpose other than testing or evaluation of the project-related products and rights.
- L. **Program** refers to the entire effort undertaken and planned by the Contractor including the work co-funded by the Commission. The project may coincide with or extend beyond the contract period.
- M. **Project** refers to the work elements of the program. Typically, there are distinct projects within the program being paid for by the Commission under this contract.
- N. **Project-Related Products and Rights** means any and all energy inventions, discoveries, machines, designs, computer software, products, devices, mechanisms, methods, protocols, processes, algorithms, flowcharts, diagrams, trade secrets, data, copyrights, patents, trademarks, proprietary rights, and the like created or made or discovered or first reduced to practice by the Contractor or other third party as a result, in whole or in part, of the contract award(s) and any and all updates, revisions, modification, enhancements, derivations, variations, additions, continuations, renewals, and extensions thereto and all proceeds and products therefrom.
- O. **Sale** is sale, license, lease, gift or other transfer of a project-related product or right.
- P. **Sales Price** means gross revenue, excluding normal returns and allowances such as sales tax, freight and insurance, if applicable, derived from a sale.
- Q. **Subject Invention** means any and all energy invention or discovery conceived, or first actually reduced to practice in the course of or under the Commission-funded portion of this contract (i.e., that portion of this contract for which Contractor has invoiced the Commission and received reimbursement) and includes any art, method, process, machine, manufacture design or composition of matter, or any new and useful improvement hereof, whether patented or unpatented, under the patent laws of the United States of America or any foreign country.
- R. **Technology** refers to the general subject area where the product or innovation will be used. For example, solar thermal electric generation is a technology area; direct steam generation is an innovation in this technology area. **Technology Developed** means subject invention and/or project-related products and rights.

S. Terms Relating to Data

- 1) **Technical Data** or **Data** as used throughout this contract means recorded information regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research; document experimental, developmental, demonstration, or engineering work; or be usable or used to define a design or process; or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs, test specifications or related performance or design type documents or computer software (including computer programs, computer software data bases, and computer software documentation). Examples of technical data include manufacturing techniques and methods, machinery, devices such as tools, products, or components, research and engineering data, engineering drawings and associated lists, specifications, engineering calculations, standards, process sheets, manuals, technical reports, catalog item identification, and related information. Technical data as used herein does not include financial reports, cost analyses and other information incidental to contract administration.
- 2) **Business Information** is information about the operation of a specific business. It includes information concerning the cost and pricing of goods, supply sources, cost analyses, characteristics of customers, books and records of the business, sales information including mailing lists, customer lists, business opportunities, information regarding the effectiveness and performance of personnel, and information incidental to contract administration.
- 3) **Public Information** is information previously published, generally available from more than one source, or information in the public domain. All air monitoring and emission data included in a proposal or requested through a contract are public information. Government Code Section 6254.7 states that all information, analyses, plans or specifications that disclose the nature, extent, quantity, or degree of air contaminants or other pollution which any article, machine, equipment, or other contrivance will produce, which any state or local agency requires applicant to provide before the applicant builds, erects, alters, replaces, operates, sells, rents, or uses such article, etc., are public records.
- 4) **Confidential Information** is technical data or business information a Contractor has satisfactorily identified and which the Commission has agreed to designate as confidential.
- 5) **Proprietary Data** is such data as Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this contract or produced by Contractor or its subcontractors at its own expense, and which Contractor has reasonably demonstrated as being of a proprietary nature either by reason of copyright, patent or trade secret doctrines in full force and effect at the time when performance of this contract is commenced.
- 6) A **Trade Secret** is any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented and which is generally known only to certain individuals with a commercial concern and are using it to fabricate, produce or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

- 7) **Generated Data** is that data which the Contractor collects, collates, records, deduces, reads out or postulates for use in the performance of this contract. In addition, any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this contract at Commission expense, together with complete documentation thereof, shall be treated as generated data.
- 8) **Deliverable Data** is that data which, under the terms of this contract, is required to be delivered to the Commission.

5. PAYMENTS TO CONTRACTOR

Subject to the conditions listed below, the Commission agrees to reimburse Contractor for expenses incurred in accordance with the budget, Exhibit C. The consideration to be paid Contractor, as provided herein, shall be in compensation for Contractor's allowable expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided. The Commission will accept computer-generated or electronically transmitted invoices without backup documentation provided that Contractor sends a hardcopy the same day to the address in Exhibit D. The total amount of this contract shall not exceed \$Total cost.00 (spellout).

- A. A request for payment shall consist of, but is not limited to:
 - 1) a dated invoice, as detailed in Exhibit C, Budget, listing the following items:
 - a) Contractor's federal ID number and the Commission contract number,
 - b) Contractor labor showing the labor rates, hours, direct costs, and indirect costs,
 - c) match fund expenditures,
 - d) travel expenses, subcontractor's invoices (identifying DVBES), equipment invoices,
 - e) billing period, and
 - f) cumulative expenditures by task during the performance of the contract, and
 - 2) evidence of progress, deliverables and written progress reports prepared by the Contractor as detailed in Exhibit A and Exhibit B.
- B. Payments shall be made no more frequently than monthly in arrears.
- C. The Commission Contract Manager may approve invoices requesting partial payment of a task if the Contractor has demonstrated sufficient evidence of progress toward preparing the deliverables required in that task. The Commission Contract Manager will dispute an invoice requesting payment of all funds remaining in that task budget, if the Commission Contract Manager has not received and approved all of the deliverables due for that task.
- D. Each invoice is subject to Commission Contract Manager approval and payment by the State Controller's Office.
- E. Payments shall be made to Contractor only for undisputed invoices. An undisputed invoice is an invoice executed by Contractor for services rendered to the Commission and for which additional evidence is not required to make payment. Such evidence shall consist of written monthly progress reports and any other deliverables prepared by Contractor, submitted to and approved by the Commission Contract Manager, as required by each task. The Commission Contract Manager shall give written notice and specify the known reasons for dispute to Contractor within 15 working days of

receipt of the disputed invoice by using a State of California Standard Form 209. If the invoice is not disputed within the 15 working days, the invoice is presumed to be valid, but is subject to audit and verification.

- F. Contractor shall submit all invoices to the address designated in Exhibit D.
- G. Commission shall retain from each invoice an amount equal to 10% of that invoice, excluding equipment invoices. The retained amount shall be held by the Commission and released to Contractor only upon the Commission's approval that the contract work has been satisfactorily completed and the Final Report has been received and approved. Contractor must submit an invoice for the retained amount.

OR

- G. Retention may be released upon completion of tasks that are considered separate and distinct, i.e., the task is a stand alone piece of work and could be done without the other tasks. The Commission Contract Manager shall specify and notify the Contractor Program Director in writing which tasks can be paid in full upon their completion. The procedure for releasing retention upon task completion is as follows:
 - 1) Contractor must submit all deliverables required by the task and an invoice requesting payment in full for the task.
 - 2) The Commission Contract Manager must approve the submitted work. The work must be satisfactorily completed and deliverables accepted by the Commission Contract Manager.
 - 3) The Commission Contract Manager must prepare and submit to the Contracts Office, with the Contractor's invoice requesting retention payment, a copy of all approved deliverables and a Contract/Contractor Evaluation Form.

Certain tasks, such as administration or management of the contract and/or subcontractors, are not considered separate and distinct tasks. Therefore, retention on those tasks will not be released until the termination of the contract.

- H. Payment shall be made to Contractor no later than 30 calendar days from the date a correct invoice is received in the Commission Accounting Office. The State shall make payment to the Contractor for performance under this contract, in accordance with applicable deliverable criteria, receipt and approval by the Commission, and in accordance with invoices submitted.
- I. Contractor is entitled to interest penalties beginning on the 46th calendar day that an undisputed invoice is not paid. Contractor is not required to submit an invoice for the interest penalties.
- J. Fiscal Records

Contractor shall retain all records relating to direct and indirect expenses reimbursed to Contractor hereunder, and to hours of employment on this contract by all employees of Contractor for which the Commission is billed. Such records shall be maintained for a period of three years after final payment of this contract, or until audited by the State, whichever occurs first, and shall be available for inspection or audit at any reasonable time by the Commission or its designee.

- K. This contract is funded through the Public Interest Energy Research (PIER) Program. Contractor is providing matching funds identified in Contractor's proposal. Total program

costs are estimated to be \$total project cost.00, and to be funded as detailed in Exhibit C, Budget.

- L. Availability of these contract funds may expire on _____. Funding after this date is contingent upon an extension of the availability periods. The Commission may request the availability period to be extended through the State legislative process; however, the Commission cannot warrant or guarantee that such extension will be approved. The Commission has the option to cancel the contract under the termination clause or to amend the contract to reflect any reduction of funds.

6. TRAVEL AND PER DIEM

- A. Travel identified in Exhibit C, Budget is approved and does not require further authorization.
- B. Travel that is not included in Exhibit C, Budget shall require prior written authorization from the Commission Contract Manager. Travel expenses shall be paid from the Contractor's office location where the employees assigned to the contract are permanently located.
- C. Contractor shall be reimbursed for travel and per diem on the same basis as nonrepresented State employees, Commission shall provide Contractor with current rates and updates when revised by the State. Travel expenses in excess of the State rates cannot be reimbursed.
- D. Contractor must retain documentation of travel expenses in its financial records as follows:
- expenses must be detailed using the current State rates,
 - expenses must be listed by trip including dates and times of departure and return, and
 - receipts for travel expenses claimed must be retained by Contractor (receipts are not required for travel meals or incidentals within current allowable rates).

7. PURCHASE OF EQUIPMENT

- A. Equipment identified in Exhibit C, Budget is approved for purchase.
- B. In the event Commission contract funds are used to purchase equipment not identified in Exhibit C, Budget, then the purchase of equipment in excess of \$5,000 shall be subject to prior written approval from the Commission Contract Manager.
- C. All equipment purchased with Commission funds shall be made subject to the following terms and conditions:
- 1) The Contractor will complete and sign a Uniform Commercial Code (UCC.1) Financing Statement and submit it to the Commission Contract Manager for processing. The Commission Contract Manager will review the UCC.1 and file the satisfactory UCC.1 with the Secretary of State's Office. Invoices for equipment purchases associated with a UCC.1 will not be processed until the Contractor has properly completed the UCC.1.
 - 2) Title to all non-expendable equipment purchased in part or in whole with Commission funds shall remain with the Commission.
 - 3) Contractor shall assume all risk for maintenance, repair, destruction and damage to equipment while in the possession or subject to the control of Contractor. Contractor is not expected to repair or replace equipment that is intended to undergo significant

modification or testing to the point of damage/destruction as part of the work described in Exhibit A, Work Statement.

D. Upon termination of this contract, Commission may:

- 1) Request that such equipment be returned to the Commission with any costs incurred for such return to be borne by Commission.
- 2) By mutual agreement with the Contractor, allow the Contractor to purchase such equipment for an amount not to exceed the residual value of the equipment as of the date of termination of this contract.
- 3) For separate consideration, the Commission may authorize the continued use of such equipment to further Public Interest Energy Research efforts.

8. PROJECT BUDGET REVISIONS

- A. Budget reallocations that do not significantly affect the scope of work will be made in the following manner. Contractor shall provide reasonable advance notification to the Commission Contract Manager of any anticipated budget reallocations. Contractor may reallocate an element, project or task budget up to 15 percent (15%), with prior written approval from the Contract Manager. Reallocations of more than fifteen percent (15%) of an element, project, or task budget require prior written approval of the Commission Contract Manager and the Buildings Program Team Lead. Commission Contract Manager will notify the Contractor Program Director in writing within 10 working days. The Commission Contract Manager shall send approved changes in a budget to the Commission Contract Officer.
- B. Significant changes in the scope of work must be approved by the Commission in the form of a formal amendment. A change is significant if it increases the project budget beyond the approved amount, results in changes in deliverables, moves due dates beyond the term of the contract or modifies the scope of work reasonably beyond that approved at the Commission business meeting.

9. CONTRACT MANAGEMENT

A. Contractor Program Director

The Program Director on behalf of Contractor is designated in Exhibit D. Contractor's Program Director may not be replaced without Commission Contract Manager's prior written approval. Such approval shall not be unreasonably withheld. The Contractor Program Director is responsible for the day to day project status, decisions and communications with the Commission Contract Manager.

B. Commission Contract Manager

The Commission Contract Manager is designated in Exhibit D. Commission may change the Contract Manager by notice given Contractor at any time signed by the Commission Contract Officer. The Commission Contract Manager is responsible for the day-to-day contract status, decisions and communications with the Contractor Program Director. Commission Contract Manager will review and approve all project deliverables, reports and invoices.

- C. The Commission Contract Manager and the Contractor Program Director have oversight responsibilities for all projects funded under this contract.

10. PROGRAM MANAGEMENT

(Program management, roles and responsibilities will be defined in this Paragraph of the awarded contract and will be based in part on the Bidder's proposal describing this process.)

11. STANDARD OF PERFORMANCE

- A. Contractor, its subcontractors and their employees in the performance of Contractor's work under this contract shall be responsible for exercising the degree of skill and care required by customarily accepted good professional practices and procedures used in scientific and engineering research fields.
- B. The failure of a project to achieve the technical or economic goals stated in the Work Statement is not a basis for the Commission to determine that the work is unacceptable, unless the work conducted by the Contractor or subcontractors is deemed by the Commission to have failed the foregoing standard of performance.
- C. In the event that Contractor or its subcontractor fail to perform in accordance with the foregoing standard of performance, the Commission Contract Manager and the Contractor Project Director shall seek to negotiate in good faith an equitable resolution satisfactory to both parties. If such a resolution cannot be reached, the parties shall work through the Commission's dispute resolution process described in Paragraph 23, Disputes herein.
- D. Nothing contained in this section is intended to limit any of the rights or remedies which the Commission may have under law.
- E. The Commission Contract Manager shall, upon completion of the contract, prepare a performance evaluation of Contractor.
 - 1) If the Commission Contract Manager prepares an unsatisfactory evaluation, the evaluation shall be filed with the Department of General Services. The Commission shall notify and send a copy of the evaluation to the Contractor within 15 days. The Contractor shall have 30 days to prepare a response to the evaluation of the contract performance. The Contractor shall send its response to the Department of General Services, Office of Legal Services and a copy to the Commission.
 - 2) The unsatisfactory evaluation and Contractor's response shall not be a part of the public records and shall remain on file for a period of 36 months only.

12. SUBCONTRACTORS AND SUBCONTRACTOR AGREEMENTS

- A. Agreements with Subcontractors
 - 1) Contractor shall be responsible for establishing and maintaining contractual agreements with and reimbursement of each of the subcontractors for work performed in accordance with the terms of this contract. Contractor shall provide Commission with copies of all contractual agreements with subcontractors promptly upon final execution thereof.

Replacement or substitution of all non-key subcontractors is permitted with reasonable advance written notification to the Commission Contract Manager. Upon the termination of any subcontract, the Commission Contract Manager shall be notified immediately. The replacement or substitution process shall be subject to the provisions of subparagraphs .D and E below.

- 2) PIER contracts with a private or public university as a subcontractor may include language from the terms agreed upon by the Commission and referenced in Request for Proposal 500-98-505, Attachment 7, amended on May 8, 1998, which addresses special terms applicable to universities.
- 3) Each subcontract shall contain provisions similar to those of Paragraph 20. "Rights of Parties Regarding Intellectual Property", subparagraph F. "Limitations on Contractor Disclosure of Contract Data, Information, Reports and Records," related to the confidentiality of Commission data and its nondisclosure by Contractor.
- 4) All subcontracts entered into pursuant to this contract shall be subject to examination and audit by the Bureau of State Audits for a period of three years after final payment under the contract.
- 5) Each subcontract to which the Commission has consented shall contain a provision that further assignments shall not be made to any third or subsequent tier subcontractor without additional advance written consent of Commission.

B. Key Personnel

Contractor's key personnel, listed in Exhibit D, may not be substituted without the Commission Contract Manager's prior written approval. Such approval shall not be unreasonably withheld. Contractor may substitute all other personnel, with reasonable advance notification made to the Commission Contract Manager.

Key personnel are employees or consultants of the Contractor who are critical to the outcome of the project. For example, they may have expertise in the particular field, or have experience that is not available from another source. Replacing these individuals may affect the outcome of the project.

C. Key Subcontractors

Contractor's key subcontractors, listed in Exhibit D, may not be substituted without the Commission Contract Manager's prior written approval. Such approval shall not be unreasonably withheld. Contractor may substitute all other subcontractors, with reasonable advance notification made to the Commission Contract Manager. Replacement of key subcontractors is subject to the conditions of subparagraph D.

Key subcontractors are contractors/subcontractors/vendors to the Contractor and who are critical to the outcome of the project. For example, they may have expertise in the particular field, or have experience that is not available from another source. An employee of the Contractor's contractor/subcontractor/vendor may also qualify as a "key" participant.

D. Additions, Removal, or Substitutions of Subcontractors

Any subcontractor changes shall be subject to the following conditions:

- 1) Contractor may use its contracting policies and procedures if it meets the State's selection requirements. Contractor shall provide the Commission with a copy of its contracting policies and procedures. The Commission Contract Officer shall evaluate the Contractor's solicitation and selection process to determine if it is in substantial accord with the State's process. The Commission Contract Officer will retain this set of contracting policies and procedures until the final audit of project records.
- 2) If Contractor's process is acceptable, Contractor may use its process to solicit and select subcontractors. If, however, Contractor's process does not substantially meet the State's requirements, Contractor shall solicit a minimum of three bids or provide justification, in advance, to the Contract Officer, as to why a competitive process is not appropriate.
- 3) Thirty days prior to using new policies and procedures, the Contractor shall notify the Commission Contract Officer and provide a detailed, written description of the changes. The Commission Contract Officer will provide a written determination to the Contractor stating whether the revised changes are still in substantial accord with the State's process.

E. Disabled Veteran Business (DVBE) Changes

During the term of this contract, the Contractor must use the DVBE subcontractors/vendors identified in its proposal. If the DVBE subcontractors/vendors listed in the contract are changed, the Contractor must notify, in writing, the Commission Contract Manager. The procedure for replacing any subcontractor/vendor is defined in subparagraph D above. The Contractor's written request must include:

- 1) A letter from the Contractor explaining the reason for the change; and
- 2) The identity of the DVBE subcontractor/vendor changed; or
- 3) If the change is not another DVBE, an explanation of the Contractor's efforts (good faith) to replace the DVBE with another DVBE.

The Contractor's request and the Commission's approval or disapproval shall not be an excuse for noncompliance with any other provision of law including, but not limited to, the subletting and subcontracting fair practices act or any other contract requirements related to substitution of subcontractors.

Contractor's failure to adhere to the DVBE participation goals in its proposal may be cause for contract termination and recovery of damages under the rights and remedies due the Commission under Paragraph 25, Termination.

13. REPORTING

- A. All reports and deliverables shall be delivered to the person and address designated in Exhibit D.

B. Progress Reports

The Contractor shall prepare progress reports which summarize all contract activities conducted by the Contractor for the reporting period, including an assessment of the ability to complete the project within the current budget and any anticipated cost overruns. Each progress report is due to the Commission Contract Manager within 30 days after the end of the reporting period. The Commission Contract Manager will specify the report format, contents, and number of copies to be submitted, see Attachment 1, Progress Report Format.

C. Final Report and Final Meeting

At the conclusion of the contract's technical work and as provided for in Exhibit A, Work Statement, and Exhibit B, Task Deliverables Schedule, Contractor shall prepare a comprehensive written Final Report, including an Executive Summary. The Commission Contract Manager will review and approve the Final Report.

Contractor shall also meet with the Commission to present the findings, conclusions, and recommendations. Both the final meeting and the Final Report must be consummated on or before the termination date of the contract. Final Report specifications and meeting are detailed in the Exhibit A, Work Statement, and Attachment 2, Final Report Format.

D. All reports, including reprints, shall include the following legend:

LEGAL NOTICE

THIS REPORT WAS PREPARED AS A RESULT OF WORK SPONSORED BY THE CALIFORNIA ENERGY COMMISSION (COMMISSION). IT DOES NOT NECESSARILY REPRESENT THE VIEWS OF THE COMMISSION, ITS EMPLOYEES, OR THE STATE OF CALIFORNIA. THE COMMISSION, THE STATE OF CALIFORNIA, ITS EMPLOYEES, CONTRACTORS, AND SUBCONTRACTORS MAKE NO WARRANTY, EXPRESS OR IMPLIED, AND ASSUME NO LEGAL LIABILITY FOR THE INFORMATION IN THIS REPORT; NOR DOES ANY PARTY REPRESENT THAT THE USE OF THIS INFORMATION WILL NOT INFRINGE UPON PRIVATELY OWNED RIGHTS. THIS REPORT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE COMMISSION NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION IN THIS REPORT.

15. RECORDKEEPING, COST ACCOUNTING AND AUDITING

A. Cost Accounting

Contractor agrees to keep separate, complete, and correct accounting of the costs involved in developing, installing, constructing, and testing of project-related product(s) funded under the Commission-funded portion of this contract as well as keep separate, complete, and correct account of the economic benefit(s) from project-related product(s) and right(s). The Commission shall have the right to examine Contractor's books of accounts at all reasonable times to the extent and as is necessary to verify the accuracy of Contractor's reports.

B. Accounting Procedures

The Contractor's costs shall be determined on the basis of the Contractor's accounting system procedures and practices employed as of the effective date of this contract; provided that the Contractor shall use generally accepted accounting principles and cost reimbursement practices. The Contractor's cost accounting practices used in accumulating and reporting costs during the performance of this contract shall be consistent with the practices used in estimating costs for

any proposal to which this contract relates; provided that such practices are consistent with the other terms of this contract and provided, further, that such costs may be accumulated and reported in greater detail during performance of this contract. The Contractor's accounting system shall distinguish between direct costs and indirect costs. All costs incurred for the same purpose, in like circumstances, are either direct costs only or indirect costs only with respect to costs incurred under this contract.

C. Allowability of Costs

1) Allowable Costs

The costs for which the Contractor shall be reimbursed under this contract include all costs, direct and indirect, incurred in the performance of work that are allowable in accordance with the provisions of the Budget. Costs must be incurred within the term of the contract. Factors to be considered in determining whether an individual item of cost is allowable include (i) reasonableness of the item, (ii) allocability of the item to the work, (iii) the Contractor's use of generally accepted accounting principles and cost reimbursement practices, and (iv) the other terms and conditions of this contract.

2) Unallowable Costs

The following is a description of some specific items of cost that are unallowable; provided, however, that the fact that a particular item of cost is not included shall not mean that it is allowable. Details concerning the allowability of costs are available from the Commission Accounting Office.

- a) Contingency Costs, Imputed Costs, Fines and Penalties, Losses on Contracts, and Excess Profit Taxes are unallowable.
- b) The State of California is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor, or on any taxes levied on employee wages. The Commission will only pay for any State or local sales or use taxes on the services rendered for equipment, parts or software supplied to the Commission pursuant to this contract. The Contractor will execute all such documents and take all such steps as are reasonably necessary to obtain the benefits of tax exemptions for which Commission is eligible. Taxes paid for which exemptions were available but not exercised, are not allowable items of cost.

D. Audit Rights

Contractor shall maintain books, records, documents, and other evidence, based on the procedures set forth above, sufficient to reflect properly all costs claimed to have been incurred in performing this contract. The Commission, an agency of the State or, at the Commission's option, a public accounting firm designated by Commission, may audit such accounting records at all reasonable times with prior notice by Commission. Commission shall bear the expense of such audits. It is the intent of the parties that such audits shall ordinarily be performed not more frequently than once every twelve (12) months during the performance of the work and once at any time within three (3) years following payment by Commission of the Contractor's final invoice. However, performance of any such interim audits by Commission does not preclude further audit.

Contractor agrees that the Commission, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this contract. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this contract. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896)

E. Refund to Commission

If Commission determines, pursuant to subarticle C or otherwise, that any invoiced and paid amounts exceed the actual allowable incurred costs and earned fixed fee (if any), Contractor shall repay such amounts to Commission within thirty (30) days of request or as otherwise agreed by the Commission and Contractor. If such repayments are not received by Commission, Commission shall be entitled to withhold further payments to the Contractor.

F. Audit Cost

The cost of the audit shall be borne by the Commission provided that if the results of the audit reveal an error detrimental to Commission exceeding more than ten percent (10%) or \$5,000 (whichever is greater) of the amount audited or, if a royalty audit, the total royalties due in the period audited, Contractor agrees to reimburse Commission for reasonable costs and expenses incurred by Commission in conducting such audit.

16. BUSINESS ACTIVITY REPORTING

A. Contractor shall promptly notify the Commission Contract Manager of the occurrence of each of the following:

- 1) A change of address.
- 2) A change in the business name or ownership
- 3) The existence of any litigation or other legal proceeding affecting the project.
- 4) The occurrence of any casualty or other loss to project personnel, equipment or third parties of a type commonly covered by insurance.
- 5) Contractor's receipt of notice of any claim or potential claim against Contractor for patent, copyright, trademark, service mark and/or trade secret infringement that could affect the Commission's rights.

B. Contractor shall not change or reorganize the type of business entity under which it does business except upon prior written notification to the Commission. A change of business entity or name change requires an amendment assigning or novating the contract to the changed entity. In the event the Commission is not satisfied that the new entity can perform as the original Contractor, the Commission may terminate this contract as provided in the termination paragraph. (See also Paragraph 26)

17. REVIEW AND NOTICE OF CONFLICTING TERMS

Contractor warrants and attests that it has conducted a detailed review of the terms and conditions of its existing project related third party agreements and has identified all known or reasonably foreseeable conflicts with this contract's terms and conditions and has disclosed the conflicts in writing to the Commission prior to executing this contract. In the event further conflicts are identified, Contractor and Commission agree that these conflicts shall be addressed using the procedure described in the "Disputes" clause found at Paragraph 23. Nothing in this contract is intended to nullify or obviate any prior third party agreements executed by Contractor. However, the Commission is free to terminate this agreement if the conflict impairs or diminishes the value of this agreement.

18. CONFIDENTIALITY

A. The Commission Contract Manager and the Contractor will identify pre-existing confidential or proprietary items to be delivered under this contract.

Or

A. The Contractor has not identified any confidential or proprietary items to be delivered under this contract.

Or

A. The Commission agrees to keep confidential the items listed in Exhibit E.

AND

The Commission Executive Director makes the final determination of confidentiality. In the event there is a disagreement over the items to be delivered under the contract, the parties shall use the "Disputes" clause found at Section 23. Those items to be delivered as confidential shall be subject to the Commission Executive Director's determination of confidentiality. If the Contractor wishes to appeal the Executive Director's determination, the appeal shall be made to the full Commission. If the Contractor disagrees with this determination, the Contractor may seek judicial review as per Title 20 CCR 2506, et seq..

B. Public and Confidential Deliverables

All deliverables including, but not limited to, progress reports, task deliverables and the Final Report shall not contain confidential information except when the Commission Contract Manager and the Contractor deem it necessary to include confidential information in a deliverable. In such event, the Contractor shall prepare the deliverable in two separate volumes, one for public distribution and one to be maintained in the Commission's confidential records. Only those items specifically listed in Exhibit E or in a subsequent determination of confidentiality qualify as confidential deliverables.

C. Identifying and Submitting Confidential Information

All confidential information submitted by the Contractor shall be marked "Confidential" on each document containing the confidential information and presented in a sealed package to the Commission Contract Manager.

D. Future Confidential Information

The Contractor and the Commission agree that during this contract, it is possible that the Contractor may develop additional data or information that the Contractor considers to be protectable as confidential information. The Commission Contract Manager shall provide a copy of the Commission Application for Confidential Designation to the Contractor Project Director. Contractor must list all items and information along with justification for

confidentiality and submit the application to the Commission Contract Manager. The Commission Executive Director makes the final determination of confidentiality. Such subsequent determinations will be added to Exhibit E.

19. INTELLECTUAL PROPERTY ITEMS DEVELOPED PRIOR TO THIS CONTRACT

- A. The Commission makes no claim to intellectual property that existed prior to this contract and was developed without Commission funding.
- B. The Contractor gives notice that the items listed in Exhibit E have been developed without Commission funding and prior to the start of this contract. This list represents a brief description of the prior developed intellectual property. A detailed description of the intellectual property, as it exists on the effective date of this contract, may be necessary if Commission funds are used to further develop the listed intellectual property. This information will assist the parties make an informed decision regarding intellectual property rights and possible repayment obligations.

Or

- B. Contractor has not identified any pre-existing intellectual property.

20. RIGHTS OF PARTIES REGARDING INTELLECTUAL PROPERTY

- A. Commission's Rights in Deliverables

Deliverables and reports specified for delivery to the Commission under this contract shall become the property of the Commission. The Commission may use, publish, and reproduce the deliverables and reports subject to the provisions of subparagraph C.

- B. Rights in Technical, Generated, and Deliverable Data

- 1) Contractor's Rights

All data (i.e., technical, generated and deliverable data) produced under this contract shall be the property of the Contractor, limited by the license retained by the Commission in 2) below, and the rights the Commission has in deliverables specified above in A).

- 2) Commission's Rights

Contractor shall provide the Commission with a copy of all technical, generated and deliverable data produced under the contract. Contractor does not have to copy and submit data the Commission Contract Manager has identified as being unusable to the Commission and the PIER program. For instance, some data may not warrant routine copying and shipping because the raw data is too disaggregated or voluminous for practical application. Retention of such data at the Contractor's facility for inspection, review and possible copying by the Contract Manager is expected to be a more efficient use of Commission staff and the Contractor's time and efforts.

For all data (technical, generated and deliverable) produced under this contract, the Commission retains a no-cost, non-exclusive, non-transferable, irrevocable, royalty-free, worldwide, perpetual license to use, publish, translate, produce and to authorize others to produce, translate, publish and use the data, subject to the provisions of subparagraph C.

C. Limitations on Commission Disclosure of Contractor's Confidential Records

- 1) Data provided to the Commission by Contractor, which data the Commission has not already agreed to keep confidential and which Contractor seeks to have designated as confidential, or is the subject of a pending application for confidential designation, shall not be disclosed by the Commission except as provided in Title 20 CCR Sections 2506 and 2507 (or as they may be amended), unless disclosure is ordered by a court of competent jurisdiction.
- 2) It is the Commission's intent to use and release project results such as deliverables and data in a manner calculated to further PIER while protecting proprietary or patentable interests of the parties. Therefore, the Commission agrees not to disclose confidential data or the contents of reports containing data considered by Contractor as confidential, without first providing a copy of the disclosure document for review and comment by Contractor. Contractor shall have no less than 10 working days for review and comment and, if appropriate, to make an application for confidential designation on some or all of the data. The Commission shall consider the comments of Contractor and use professional judgment in revising the report, information or data accordingly.

D. Exclusive Remedy

In the event the Commission intends to publish or has disclosed data the Contractor considers confidential, the Contractor's exclusive remedy is a civil court action for injunctive relief. Such court action shall be filed in Sacramento County, Sacramento, California.

E. Waiver of Consequential Damages

IN NO EVENT WILL THE ENERGY COMMISSION BE LIABLE FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT, OR ANY OTHER LEGAL THEORY FOR THE DISCLOSURE OF CONTRACTOR'S CONFIDENTIAL RECORDS, EVEN IF THE ENERGY COMMISSION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. DAMAGES THAT THE ENERGY COMMISSION WILL NOT BE RESPONSIBLE FOR INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF PROFIT; LOSS OF SAVINGS OR REVENUE; LOSS OF GOODWILL; LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT; COST OF CAPITAL; COST OF ANY SUBSTITUTE EQUIPMENT, FACILITIES, OR SERVICES; DOWNTIME; THE CLAIMS OF THIRD PARTIES INCLUDING CUSTOMERS; AND INJURY TO PROPERTY.

F. Limitations on Contractor Disclosure of Contract Data, Information, Reports and Records

- 1) Contractor will not disclose the contents of the final or any preliminary deliverable or report without first providing a copy of the disclosure document for review and comment to the Commission Contract Manager. The Contractor shall consider the comments of the Commission Contract Manager and use professional judgment in revising the reports, information or data accordingly.
- 2) After any document submitted has become a part of the public records of the State, Contractor may, if it wishes to do so at its own expense, publish or utilize the same, but shall include the legal notice stated above.

- 3) Notwithstanding the foregoing, in the event any public statement is made by the Commission as to the role of Contractor or the content of any preliminary or Final Report of Contractor hereunder, Contractor may, if it believes such statement to be incorrect, state publicly what it believes is correct.
- 4) No record that is provided by the Commission to Contractor for Contractor's use in executing this contract and which has been designated as confidential, or is the subject of a pending Application for Confidential Designation, except as provided in Title 20, CCR Sections 2506 and 2507, shall be disclosed, unless disclosure is ordered by a court of competent jurisdiction (Title 20 CCR Section 2501, et seq.). At the election of the Commission Contract Manager, the Contractor, its employees and any subcontractor shall execute a "Confidentiality Agreement," supplied by the Commission Contract Manager.
- 5) Contractor acknowledges that each of its officers, employees, and subcontractors who are involved in the performance of this contract will be informed about the restrictions contained herein and to abide by the above terms.

G. Proprietary Data

Proprietary data owned by the Contractor shall remain with the Contractor throughout the term of this contract and thereafter. The extent of Commission access to the same and the testimony available regarding the same shall be limited to that reasonably necessary to demonstrate, in a scientific manner to the satisfaction of scientific persons, the validity of any premise, postulate or conclusion referred to or expressed in any deliverable hereunder.

H. Preservation of Data

Any data which is reserved to the Contractor by the express terms hereof, and pre-existing proprietary or confidential data which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, shall be preserved by the Contractor at the Contractor's own expense for a period of not less than three years after receipt and approval by the Commission of the Final Report herein.

I. Destruction of Data

Before the expiration of three years and before changing the form of or destroying any such data, the Contractor shall notify Commission of any such contemplated action and Commission may, within thirty (30) days after said notification, determine whether it desires said data to be further preserved. If Commission so elects, the expense of further preserving said data shall be paid for by the Commission. Contractor agrees that Commission may at its own expense, have reasonable access to said data throughout the time during which said data is preserved. Contractor agrees to use its best efforts to identify competent witnesses to testify in any court of law regarding said data or, at Commission's expense, to furnish such competent witnesses.

J. Patent Rights

Patent rights for subject inventions will be the property of Contractor, subject to the Commission retaining a no-cost, nonexclusive, nontransferable, irrevocable royalty-free, worldwide perpetual license to use or have practiced for or on behalf of the State of California the subject invention(s) for governmental purposes. Contractor must obtain agreements to effectuate this clause with all persons or entities, except for the U.S. Department of Energy

(DOE), obtaining ownership interest in the patented subject invention(s). Previously documented (whether patented or unpatented under the patent laws of the United States of America or any foreign country) inventions are exempt from this provision.

K. March-In Rights

The Contractor shall forfeit and assign to the Commission, at the Commission's request, all rights on a subject invention if either: 1) Contractor fails to apply for a patent on subject inventions(s) developed under this contract within six months of conceiving or first actually reducing to practice the technology or 2) Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention. In this event, the Contractor agrees to relinquish all rights, subject to DOE reserved rights, on the subject invention to the Commission. The Commission will have the unfettered right to use and/or dispose of the rights in whatever manner it deems most suitable to help transfer the technology into the market place, including but not limited to, seeking patent protection, or licensing the invention.

L. Commission's Rights to Invention.

Contractor and all persons and/or entities obtaining an ownership interest in subject invention(s) shall include within the specification of any United States patent application, and any patent issuing thereon covering a subject invention, the following statement:

"THIS INVENTION WAS MADE WITH STATE OF CALIFORNIA SUPPORT UNDER CALIFORNIA ENERGY COMMISSION CONTRACT NUMBER KtNUMBER. THE ENERGY COMMISSION HAS CERTAIN RIGHTS TO THIS INVENTION."

M. Commission's Interest in Inventions.

Upon the perfecting of a patent application on any subject invention, Contractor will complete and sign a Uniform Commercial Code (UCC.1) Financing Statement and submit it to the Commission Contract Manager for complete processing. The Commission Contract Manager will review the UCC.1 for complete information and file the satisfactory UCC.1 with the Secretary of State's Office.

N. Copyrights

- 1) Copyrightable material first produced under this contract shall be owned by the Contractor, limited by the license granted to the Commission in 2) below.
- 2) Contractor agrees to grant the Commission a royalty-free, no-cost nonexclusive, irrevocable, nontransferable worldwide, perpetual license to produce, translate, publish, use and dispose of, and to authorize others to produce, translate, publish, use and dispose of all copyrightable material first produced or composed in the performance of this contract.
- 3) Contractor will apply copyright notices to all deliverables using the following form or such other form as may be reasonably specified by Commission.

“©[YEAR OF FIRST PUBLICATION OF DELIVERABLE], [THE COPYRIGHT HOLDER'S NAME].
ALL RIGHTS RESERVED.”

4) Software

In the event software is developed that is not a deliverable under the contract, Contractor shall have the right to copyright and/or patent such software and grants the Commission a royalty-free, no-cost, non-exclusive, irrevocable, non-transferable, worldwide, perpetual license to produce and use the software, its derivatives and upgrades for governmental purposes.

O. Intellectual Property Indemnity

Contractor warrants that Contractor will not, in its supplying of the work under this contract's work statement, knowingly infringe or misappropriate any intellectual property right of a third party, and that it will conduct a reasonable investigation of the intellectual property rights of third parties to avoid such infringement. Contractor will defend and indemnify Commission from and against any claim, lawsuit or other proceeding, loss, cost, liability or expense (including court costs and reasonable fees of attorneys and other professionals) to the extent arising out of: (i) any third party claim that a deliverable infringes any patent, copyright, trade secret or other intellectual property right of any third party, or (ii) any third party claim arising out of the negligent or other tortious act(s) or omission(s) by the Contractor, its employees, subcontractors or agents, in connection with or related to the deliverables or the Contractor's performance thereof under this contract.

21. ROYALTY PAYMENTS TO COMMISSION

- A. In consideration of Commission providing funding to Contractor, Contractor agrees to pay Commission royalties on the terms and conditions hereinafter set forth.

Contractor agrees to pay Commission a royalty of 1.5% (one and one-half percent) of the Sale Price on the sale of each and every project-related product or right.

- B. Contractor's obligation to make payments to Commission shall commence from the date project related products or rights are first sold and shall extend for a period of fifteen years thereafter. Payments are payable in annual installments and are due the first day of March in the calendar year immediately following the year during which Contractor receives revenues.
- C. Early Buyout. Contractor has the option of paying its royalty obligations to Commission without a pre-payment penalty, provided Contractor makes the payment within two years from the date at which royalties are first due to Commission, in the lump sum amount equal to two (2) times the amount of funds drawn down on the contract.
- D. Contractor agrees not to make any sale, license, lease, gift or other transfer of any Project-Related Products and Rights with the intent of, or for the purpose of, depriving Commission of royalties hereunder. Generally, this means that Contractor will not make any sale, license, lease or other transfer of Project-Related Products and Rights for consideration other than fair market value. Further, Contractor agrees that such activity constitutes breach of this contract and that Contractor agrees to repay within 60 days the amount due under subparagraph C above (Early Buyout).
- E. Contractor acknowledges that a late payment of royalties owed to the Commission will cause the Commission to incur costs not contemplated by the parties. If a royalty payment is not paid when due, Contractor agrees to pay the Commission a late fee equal to two percent (2%) of the payment due. Additionally, Contractor agrees that royalty payments not paid within fifteen (15)

days of the due date shall thereupon become debt obligations of Contractor to the Commission, due upon demand and bearing interest at the maximum interest rate allowed by law.

- F. Contractor shall maintain separate accounts within its financial and other records for purposes of tracking components of sales and royalties due to Commission under this contract.
- G. Payments to Commission are subject to audit as provided for under Paragraph 15. "Recordkeeping, Cost Accounting and Auditing".
- H. In the event of default hereunder, Commission shall be free to exercise all rights and remedies available to it herein, and under law and at equity. The occurrence of any of the following events or conditions shall cause default under this contract:
 - 1) Contractor's failure to pay when due, any amount due and payable under the terms of this contract.

22. NOTICES TO PARTIES

Notice to either party may be given by certified mail properly addressed, postage fully prepaid, to the address designated in Exhibit D for each respective party or to such other address as either party shall notify the other in accordance with this section. Such notice shall be effective when received, as indicated by post office records, or if deemed undeliverable by post office, such notice shall be effective nevertheless fifteen (15) days after mailing.

Alternatively, notice may be given by personal delivery to the party at the address designated in Exhibit D. Such notice shall be deemed effective when delivered unless a legal holiday for State offices commences during said 24-hour period, in which case the effective time of the notice shall be postponed 24 hours for each such intervening day.

23. DISPUTES

In the event of a contract dispute or grievance between the Contractor Project Director and Commission Contract Manager, any or all of the following procedures shall be used by the parties:

A. Commission Dispute Resolution

If the Commission Contract Manager and the Contractor Project Director cannot resolve a contract dispute or grievance, Contractor Project Director and Commission Contract Manager shall each prepare a package in writing stating the issues in dispute, the legal authority or other basis for their respective positions and the remedy sought. The packages must be submitted to the Commission's Dispute Resolution Committee. The Commission Contract Manager will notify the Contractor Project Director of the current Committee members. The Committee shall make a determination on the problem within ten (10) working days after receipt of the package.

Should Contractor disagree with the Committee's decision, Contractor may appeal to the full Commission at a regularly scheduled business meeting. The Committee will provide the Contractor with the current procedures for placing the appeal on a Commission Business Meeting Agenda.

Contractor shall continue with its responsibilities under this contract during any dispute.

B. Binding Arbitration

Should the Commission's Dispute Resolution procedure identified in Paragraph A. above fail to resolve a contract dispute or grievance to the satisfaction of the Contractor, the parties must mutually agree to have the dispute or grievance resolved through binding arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. The decision rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof. The demand for arbitration shall be made no later than six (6) months after the date of the contract's termination, irrespective of when the dispute or grievance arose, and irrespective of the applicable statute of limitations for a suit based on the dispute or grievance.

The cost of arbitration shall be borne by the parties as follows:

- 1) The AAA's administrative fees shall be borne equally by the parties;
- 2) The expense of a stenographer shall be borne by the party requesting a stenographic record;
- 3) Witness expenses for either side shall be paid by the party producing the witness;
- 4) Each party shall bear the cost of its own travel expenses;
- 5) All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of contract funds. Both parties must agree, in writing, to utilize contract funds to pay for arbitration costs.

24. STOP WORK

The Commission Contract Officer may, at any time, by written notice to Contractor, require Contractor to stop all or any part of the contract's work tasks. Stop Work Orders may be issued for reasons such as a project exceeding budget, standard of performance, out of scope work, delay in project schedule, misrepresentations, etc.

A. Compliance

Upon receipt of such stop work order, Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.

B. Equitable Adjustment

An equitable adjustment shall be made by Commission based upon a written request by Contractor for an equitable adjustment. Such adjustment request must be made by Contractor within thirty (30) days from the date of receipt of the stop work notice.

C. Revoking a Stop Work Order

Contractor shall resume the stopped work only upon receipt of written instructions from the Commission's Contract Officer canceling the stop work order.

25. TERMINATION

A. Breach

The Commission shall provide the Contractor written notice of intent to terminate due to Contractor's breach. Contractor will have 15 calendar days to fully perform or cure the breach. In the event Contractor does not cure the breach within 15 days, the Commission may, without prejudice to any of its other remedies, terminate this contract upon five (5) calendar days written notice to Contractor. In such event, Commission shall pay Contractor only the reasonable value of the satisfactorily performed services theretofore rendered by Contractor, as may be agreed upon by the parties or determined by a court of law, but not in excess of the contract maximum payable.

B. For Cause

The Commission may, for cause, and at its option, terminate this contract upon giving thirty (30) calendar days advance written notice to Contractor. In such event, Contractor agrees to use all reasonable efforts to mitigate its expenses and obligations. Commission will pay Contractor for services rendered and expenses incurred within the terms of the work statement and which were satisfactorily performed prior to such notice of termination which could not by reasonable efforts of Contractor have been avoided, but not in excess of contract maximum payable. Contractor agrees to relinquish possession of equipment purchased for this project with Commission funds to Commission, or Contractor may, with approval of Commission, purchase said equipment as provided by the terms of this contract.

The term "for cause" includes, but is not limited to, the following reasons:

- Partial or complete loss of match funds;
- Significant change in State or Energy Commission policy such that the work or product being funded would not be supported by the Commission;
- Reorganization to a business entity unsatisfactory to the Commission;
- The retention or hiring of subcontractors, or the replacement or addition of Key Personnel that fail to perform to the standards and requirements of this contract; or
- Failure to utilize the DVBE subcontractors/vendors in Contractor's proposal.

C. Bankruptcy

In the event proceedings in bankruptcy are commenced against Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies, then Commission may terminate this contract and all further rights and obligations hereunder, by giving five (5) calendar days notice in writing in the manner specified herein. It is recognized by the parties that the Commission shall have lien rights on equipment purchased with Commission funds for this project and the Commission shall retain lien rights until Contractor either returns said equipment to Commission or purchases it as is provided by the terms of this contract.

D. Gratuities

The Commission may, by written notice to Contractor, terminate the right of Contractor to proceed under this contract if it is found, after notice and hearing by Commission or by Executive Director of the Energy Commission or his duly authorized representative, that gratuities were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the Commission, with a view toward securing a contract or securing

favorable treatment with respect to awarding or amending or making a determination with respect to performance of such contract.

In the event this contract is terminated as provided herein, Commission shall be entitled to (1) pursue the same remedies against Contractor as it could pursue in the event of the breach of the contract by Contractor, and (2) exemplary damages in an amount which shall be not less than three nor more than ten times the cost incurred by Contractor in providing any such gratuities to any such officer or employee, as a penalty, in addition to any other damages to which it may be entitled by law.

The rights and remedies of Commission provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

E. Advantage

Contractor, team member or subcontractors shall not hire, contract with, or otherwise commit themselves to an advantageous economic contract with the Commission's Contractor/subcontractor who evaluated Contractor's proposal. The Commission reserves the right to cancel the contract.

26. GENERAL TERMS & CONDITIONS

A. It is understood and agreed that certain contract provisions shall survive the completion or termination date of this contract for any reason. The contract provisions include, but are not limited to:

- | | |
|---|---------------|
| • "Payments to Contractor" | Section 5 |
| • "Purchase of Equipment" | Section 7 |
| • "Recordkeeping, Cost Accounting and Auditing" | Section 15 |
| • "Business Activity Reporting" | Section 16 |
| • "Rights of Parties Regarding Intellectual Property" | Section 20 |
| • "Royalty Payments to Commission" | Section 21 |
| • "Disputes" | Section 23 |
| • "Termination" | Section 25 |
| • "Site Access" | Section 26. D |
| • "Indemnification" | Section 26. L |

B. The clause headings appearing in this contract have been inserted for the purpose of convenience and ready reference. They do not purport, and shall not be deemed, to define, limit, or extend the scope or intent of the clauses to which they appertain.

C. If public hearings on the subject matter dealt with in this contract are held during the period of the contract and if requested by the Commission, Contractor will make available to testify the personnel assigned to this contract. Commission will reimburse Contractor for labor and travel of said personnel at the contract rates for such work.

D. The Energy Commission staff or its representatives shall have reasonable access to the construction site or R&D laboratory, and all project records.

E. This contract shall be conducted in accordance with the terms and conditions of California Energy Resources Conservation and Development Commission (hereafter "Commission") Request for Proposal number 400-99-401, Contractor's proposal, dated proposal date, this contract, and the

attached exhibits listed below. Contractor's proposal is not attached hereto, but is expressly incorporated by reference into this contract. In the event of conflict or inconsistency between the terms of this contract and Contractor's proposal, this contract and its exhibits shall be considered controlling.

- F. In the interpretation of this contract, any inconsistencies between the terms hereof and the exhibits shall be resolved in favor of the terms hereof.
- G. Time is of the essence in this contract.
- H. No alteration or variation of the terms of this contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto. Other than as specified herein, no document or communication passing between the parties hereto shall be deemed as part of this contract.
- I. It is hereby understood and agreed that this contract shall be governed by the laws of the State of California as to interpretation and performance.
- J. The Commission reserves the right to seek further written assurances from the Contractor and its team that the work of the project under the contract will be performed consistent with the terms of the contract.
- K. This contract is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written contract amendment. Such consent shall not be unreasonably withheld.
- L. Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this contract.

Contractor warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable State contracting laws, codes, rules and regulations in the performance of this contract.
- M. Contractor, and the agents and employees of Contractor, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of the State.
- N. No waiver of any breach of this contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of Commission to enforce at any time any of the provisions of this contract, or to require at any time performance by Contractor of any of the provisions therefor, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this contract or any part thereof or the right of Commission to thereafter enforce each and every such provision.
- O. If any provision of this contract or the application thereof is held invalid, that invalidity shall not affect other provisions of the contract.

- P. In no event shall any course of dealing, custom or trade usage modify, alter, or supplement any of the terms or provisions contained herein.
- Q. The Contractor under the performance of this contract has been fully informed of its duties, obligations, and rights under Public Contract Code, Sections 10355 through 10382, and any additional Contractor's rights and obligations that should be included. A copy of the applicable sections of the Public Contract Code shall be provided to the Contractor upon request.
- R. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition(cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

- S. The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)
- T. For any contract in excess of \$100,000, the contractor acknowledges in accordance with, that:
- a). the contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b) the contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."
- U. Contractor shall give priority consideration in filling vacancies in positions funded by the Contract, and during the term of the Contract to qualified recipients of aid under Chapter 2, commencing with Section 11200 of the Welfare and Institutions Code, in accordance with Article 3.9, commencing with Section 11349, of the Welfare and Institutions Code.

- V. The Contractor warrants and represents that the goods or services sold, leased, or licensed to the State of California, its agencies, or its political subdivisions, pursuant to this contract are "Year 2000 compliant." For purposes of this contract, a good or services is Year 2000 compliant if it will continue to fully function before, at, and after the Year 2000 without interruption and, if applicable, with full ability to accurately and unambiguously process, display, compare, calculate, manipulate, and otherwise utilize date information. This warranty and representation supersedes all warranty disclaimers and limitations and all limitations on liability provided by or through the Contractor.

ELEMENT 1 - PROGRAM ADMINISTRATION

PROBLEM STATEMENT

The Program Administration element encompasses overall coordination and integration of the technical program elements for the _____. With many organizations participating in this program, it is imperative that a process be in place to effectively manage the proposed program to achieve the program and project goals within allocated budget and schedule.

ADMINISTRATIVE GOALS

The Program Director has overall responsibility for managing the program to achieve the specified technical and economic performance goals and to ensure that research results meet guidelines for quality within budget and schedule. This will require coordinating R&D efforts between the technical program elements. The coordination shall include overseeing assessment studies, tracking R&D progress and deliverables, ensuring the quality of RD&D results, identifying and facilitating program linkages between elements, implementing mechanisms to revisit the program's research direction and focus as research results are achieved, ensuring connection with the market and linkage to utility deployment programs, and establishing systems for reliable internal and external communications throughout the contract period.

PROJECT LIST

This program element's work scope involves the following administrative projects:

- | | |
|-------------|-----------------------------|
| Project 1.1 | Kick-Off Meeting |
| Project 1.2 | Program Start-up Activities |
| Project 1.3 | Program Meetings |
| Project 1.4 | Annual Technical Briefings |
| Project 1.5 | Progress Reports |
| Project 1.6 | Final Report |
| Project 1.7 | Final Meeting |

This work statement includes objectives, contractor activities, task deliverables, key personnel and key subcontractors for each of the projects listed above. The deliverables are defined to the extent possible, but are subject to change based on recommendations from the Project Director and the approval of the Commission Contract Manager.

PROJECT 1.1 PROGRAM KICK-OFF MEETING

The objectives of this project are to review the Commission's expectations for this contract work, to coordinate activities between multiple PIER Building contracts, and to establish an initial schedule for future contract meetings.

The Contractor shall attend a kick-off meeting with the Commission Contract Manager to review the Commission's expectations for: accomplishing tasks described in the work statement; administrative requirements in the terms and conditions of the contract (e.g., invoicing, UCC.1 form filing, prior approvals, data disclosure limitations, monthly progress reporting format and content, etc.); and the Commission's roles and responsibilities.

This kick-off meeting will also accomplish the following contract coordination efforts between the Commission Contract Manager, the Program Director and the Program Element Leads:

- Establish the schedules for the monthly reports,
- Establish an initial schedule for the critical program reviews,
- Identify software requirements for all software products developed or enhanced in this contract.
- Concur on the uses of the program management web site.
- Discuss a plan to coordinate the PIER programmatic contracts. At a minimum, this coordination shall include producing and sharing a contact list, web site links, and research bibliographies. The plan shall also include initial schedules and protocols for future research coordination and Program Advisory Committee meetings.

The date and location of this meeting shall be designated by the Commission Contract Manager. The Commission Contract Manager will be responsible for recording the decisions, agreements and schedules determined at this meeting. The Program Director is responsible for reviewing these written meeting minutes and providing a written letter to the Commission Contract Manager summarizing the agreements and containing all appropriate planning information.

The deliverables are:

- Written documentation of meeting agreements and all pertinent information.
- Written initial schedule for future contract meetings.

Key Personnel:

_____ will be responsible for this task.

PROJECT 1.2 PROGRAM START-UP ACTIVITIES

Task 1.2.1 Public Presentation

The objective of this task is to provide PIER stakeholders, interested parties and the general public an opportunity to be introduced to the research, development and demonstration work that will be undertaken in this contract.

The Contractor shall prepare an outline of the goals and objectives of the program and make a 60-minute presentation at a half-day public presentation. This meeting will introduce all three programmatic PIER contracts to the meeting attendees. The Commission Contract Manager shall designate the date, time and location of this meeting. The Commission shall designate the other participants in the public meeting.

The deliverables are:

- A prepared 60-minute presentation (electronic copy to Contract Manager).

Task 1.2.2 Program Software Standardization (if applicable)

The objective of this task is to unify the formats of electronic data and documents provided to the Commission as contract deliverables. Another objective is to establish the computer platforms, operating systems and software that will be required to review and approve all software deliverables.

The Contractor shall deliver documents to the Commission Contract Manager in the following formats:

- Data sets shall be in Microsoft (MS) Access or MS Excel file format.
- PC-based text documents shall be in MS Word file format.

- Documents intended for public distribution shall be in PDF file format.
- Project management documents shall be in MS Project file format.
- Presentation documents shall be in MS Power-Point format.

Exceptions to the above must be pre-approved in writing by the Commission Contract Manager. Computer platforms, operating systems and software requirements for all software deliverables shall be listed in a Quarterly Report and approved by the Commission Contract Manager at least 90 days before the software is scheduled to be reviewed by the Commission.

The deliverables are:

- Monthly Reports. When applicable, monthly reports shall include additional file formats that will be necessary to transfer deliverables to the Commission.
- Monthly Reports. When applicable, monthly reports shall include lists of the computer platforms, operating systems and software required to review upcoming software deliverables.

Task 1.2.3 Finalize the Program Advisory Committee (PAC)

The objective of this task is to create an advisory committee for this program. The purpose of this Program Advisory Committee (PAC) will be to:

- Provide strategic guidance to the Program Management Team (consisting of the program director, the leads of each program element, and the CEC contract manager).
- Review current and future deliverables to evaluate functionality of the deliverables. Provide specific suggestions/recommendations for needed adjustments, refinements, or enhancement of the deliverables.
- Provide guidance in research direction. The guidance should include, but not be limited to, scope of research; research methodologies; timing; coordination with other research, etc. The guidance may be based on:
 - technical area expertise
 - knowledge of market applications
 - linkages between the programmatic contract work and other past, present or future research (both public and private sector) they are aware of in a particular area
- Evaluate tangible benefits to California and provide recommendations, as needed, to enhance tangible benefits.
- Provide recommendations regarding information dissemination, market pathways or commercialization strategies relevant to the research products.

The PAC should be composed of 15-20 diverse professionals. This PAC size shall be a target that the Contractor strives to achieve. This number can vary depending on potential interest and time availability, however 15 should be considered a practical minimum. The PAC shall be composed of qualified professionals spanning the following disciplines:

- Researchers knowledgeable regarding the program elements
- Market Applicators
 - Designers (Engineers/Architects)
 - Builders
 - Building Operators
- Public Interest Market Transformation Implementers
- Product Developers
 - Equipment and Control Manufacturers
 - Other product developers relevant to individual program elements
- Public Sector Decision Makers
- Commissioning Practitioners
- DOE Research Manager
- Public Interest Environmental Groups

- Building Insurance Providers
- Property Value Assessors

The Contractor shall recruit PAC members and ensure that each individual understands the member obligations described above, as well as the meeting schedule outlined in Task 1.3.2. The Contractor may propose subsets of the PAC to contribute to specific technical elements, thereby eliminating the need for every PAC member to participate in every teleconference and meeting. This proposed PAC organization shall be pre-approved in writing by the Commission Contract Manager.

The deliverables are:

- A list of PAC members that includes name, company, physical and electronic address, and phone number.
- A brief written explanation of the PAC organization. This document will include a delineation of which PAC members will participate in each specific technical contract element.
- Letters of acceptance, or other comparable documentation of commitment, for each PAC member.

Task 1.2.4 Document Matching Funds

The objective of this task is to document the match funds for this contract.

- The Contractor need not resubmit match fund documentation if it was provided in the Contractor's proposal and the information submitted is still valid. The Contractor, however, shall assist the Commission Contract Manager to locate this proposal information, upon request.
- In the event match fund sources change during the contract term, Contractor shall immediately notify the Commission Contract Manager for approval.

Documentation of match fund commitments shall be received, reviewed and approved in writing by the Commission Contract Manager before: 1) any PIER funds under this contract are disbursed; and 2) PIER-funded work on technical tasks may begin.

The Contractor shall provide the following information about the match funding to be used to conduct this program:

1. Amount and source of each *cash* match funding, including a contact name, address and telephone number.
2. Description, documented market or book value, and source of each *in-kind* contribution, including a contact name, address and telephone number.

If the in-kind contribution is equipment or other tangible or real property, Contractor shall identify its owner and provide a contact name, address and telephone number, and the address where the property is located.

3. Written commitment from each source of cash match funding or in-kind contributions that these funds or contributions have been secured or will be secured prior to the date(s) when the funds or in-kind contributions are required for program expenditures.

In the event the Contractor has not provided the written match fund commitments for this program by three months after the contract activation date, the Commission may, at its option and in its unfettered discretion, terminate this agreement by advising Contractor in writing that the contract will be terminated in thirty (30) calendar days.

The deliverables are:

- Written documentation of matching fund agreements or written letter declaring that there have been no changes in match fund agreements.
- Documentation of Changes as they occur.

Task 1.2.5 Identify Required Permits

The objective of this task is to list all permits required for work completed under this contract.

Before any costs are incurred for which state-fund reimbursement will be requested under this contract, the Contractor shall prepare and submit to the Commission Contract Manager a list of all permits required for construction and/or operation of equipment or the project facility, the name, address and telephone number of the permitting jurisdictions or lead agencies, and the schedule the Contractor will follow in applying for and obtaining these permits. If no permits are required to conduct this program, the Contractor shall state this finding in writing to the Commission Contract Manager.

The deliverables are:

- Written documentation of all permits that will be required for this contractor declaring no permits are required.
- Documentation of permits as they occur during the contract term.

Task 1.2.6 Obtain Required Permits

The objective of this task is to obtain all required permits that will be required to complete work under this contract.

Before the Contractor is authorized to begin work on technical tasks of this contract, the Contractor must supply written certification that the Contractor has received all necessary and required permits to construct, operate, or test the proposed equipment or facility and that it is in compliance with all applicable laws, ordinances, regulations and standards. (Permits expenses are not reimbursable through the contract, therefore, the PIER budget for this task will be zero dollars.)

The deliverables are:

- Written certification that all necessary permits have been obtained.

Task 1.2.7 Program Web Site

The objective of this task is to establish and maintain an open web site for the program.

The Contractor shall create a publicly accessible web site that contains all appropriate information for this program. This web site will include, but not be limited to, the following:

- Current program element and task information;
- Access to all contract deliverables appropriate for public review;
- Links to the Commission web site;
- Links to related research;
- Links to related commercialization and market transformation activities;
- Links to other appropriate subject matter and experts.

The deliverables are:

- A web site that publicizes the research, development and demonstration activities of the program.

Task 1.2.8. Web-based Program Management (if applicable)

The objective of this task is to establish a password-protected portion of the program web site of Task 1.2.7 for managing program business. The site will be a working site for the program team members and will have security features and password control.

The Contractor shall implement web-based program management for internal communications, review of draft material, coordination of activities and schedules, tracking milestones and deliverables, and Program Advisory Committee participation.

The deliverables are:

- A password protected web site that facilitates management of the program.

Key Personnel:

_____ will be responsible for this task.

PROJECT 1.3 PROGRAM MEETINGS

Task 1.3.1 Critical Program Review Meetings

The objective of this task is for the Commission to discuss with the Contractor the status of the program and its progress toward achieving its goals and objectives.

Critical program reviews are meetings between the Contractor, the Commission Contract Manager and other individuals selected by the Commission Contract Manager to provide objective, technical support to the Commission. Meeting participants may include PIER Team Lead, Contracts Officer, Commission Technical Staff and Management. These meetings may take place at the Energy Commission offices in Sacramento, or at another, reasonable location determined by the Commission Contract Manager.

Prior to this critical program review meeting, the Contractor shall provide the task deliverable(s) to the Commission Contract Manager sufficiently in advance to allow the Contract Manager's review of the deliverable document(s) before the review meeting. If not already defined in the Work Statement, the Commission Contract Manager shall specify the contents of the deliverable document(s).

At the critical program review meeting, the Contractor shall present the required administrative and technical information, and participate in a discussion about all the program elements with the Commission Contract Manager and other meeting attendees.

Following the critical program review meeting, the Commission will determine whether the Contractor is complying satisfactorily with the Work Statement and whether the program elements are demonstrating sufficient progress toward their goals and objectives to warrant continued PIER financial support for each element.

The Commission Contract Manager will provide a written response to the Contractor indicating the Commission's conclusions and the direction to be taken as a result of those conclusions which may include directing the Contractor to not proceed with a specific element, task or to stop work.

The deliverables are:

- Recommended critical program review schedule deliverable for kickoff meeting.
- Critical program review deliverables identified in this work statement or as specified by the Commission Contract Manager.

- Updated schedule for critical program reviews, provided in the Quarterly Progress Reports as necessary.

Task 1.3.2 PAC Meetings

The objective of this task is for the PAC to provide strategic guidance to this program by participating in quarterly meetings or teleconferences.

The Contractor shall organize and lead PAC meetings with the Program Management Team on the following schedule:

Quarterly reviews with the PAC, 1 or 2 of which will be meetings at a location to be determined in consultation with CEC contract manager, and the remainder to be teleconferences.

Exceptions to the above schedule must be pre-approved in writing by the Commission Contract Manager.

The Contractor shall summarize each PAC meeting or teleconference in writing.

The deliverables are:

- Suggested PAC meeting schedule.
- Draft PAC meeting agenda(s) with back-up materials for agenda items.
- Final PAC meeting agenda(s) with back-up materials for agenda items.
- Written meeting summaries.

Key Personnel:

_____ will be responsible for this task.

PROJECT 1.4 ANNUAL TECHNICAL BRIEFINGS

The objective of this project is for the contractor to share the progress and results of the research conducted in the program with state and national buildings research communities.

The Contractor shall present at least one technical briefing on the research being conducted in this program during each year of this contract. The Contractor shall provide a written summary of the technical briefing that includes but is not limited to the event and the date, a copy of the presentation (including any handouts that were provided the attendees), the approximate number of attendees, and the results of the presentation (e.g., research products incorporated into a broader scope of work by others).

The deliverables are:

- A written summary of each technical briefing given by the Contractor on the subject of research conducted within the program.

Key Personnel:

_____ will be responsible for this task.

PROJECT 1.5 PROGRESS REPORTS

All public reports shall be delivered to:

Accounting Office, MS-2
California Energy Commission
1516 9th Street, 1st Floor
Sacramento, CA 95814

All confidential reports shall be sealed and marked “Confidential Deliverable” and submitted to:

Judith Efhan
Contracts Office, MS-18
California Energy Commission
1516 9th Street, First Floor
Sacramento, CA 95814

Task 1.5.1 Monthly Reports

The objective of this task is to periodically verify that satisfactory and continued progress is made towards achieving the research objectives of this program.

The Contractor shall prepare a *written* Monthly Progress Report to the Commission Contract Manager, starting after contract execution and shall continue each following month until the Final Report has been accepted by the Commission Contract Manager. Attachment 1 provides the format and content requirements for these reports. Monthly updates, highlights, and issues will be reported on the password protected program web site.

All interim research results (e.g., test data, product mock-ups, field site descriptions, preliminary analyses, draft reports) necessary to allow the Commission Contract Manager to review contract progress and gauge the quality of research results shall be provided in the Monthly Reports and Monthly Highlights, including evidence of software testing as appropriate for software developed or enhanced in this contract. The software test methods shall be discussed and agreed to during a contract kickoff meeting (Project 1.1). The Commission Contract Manager will not accept final deliverables nor approve invoices for deliverables without prior review and approval of progress reports and draft deliverables.

The deliverables are:

- Written Monthly Progress Reports due within 30 days of month’s end. A Monthly Progress Report is not required when Year-end reports are due.
- Monthly highlights reported through the program web site. Monthly highlights are not required when Year-end Reports are due.

Task 1.5.2 Year End Reports

The objective of this task is to annually verify that the Commission is receiving the research products expected from this contract. A further objective of this activity is to revise Year 2 & 3 work, if necessary, to incorporate the recommendations of the PAC and the Commission that will result from the project deliverable and critical program reviews. Attachment 2: Year-end and Final Report Outline and Format provides a suggested framework for this report.

The Contractor shall prepare and submit to the Commission Contract Manager a Year End Report for each of the first two years of this contract, describing the original purpose, approach and results of the year’s work. This shall include a summary of deviations and corrections to the original research plans. This report shall also include draft research plans with deliverables for the following contract year. These research plans shall incorporate changes in the following year’s work plans with deliverables to reflect the results of PAC reviews and the Commission Critical

Program Review conducted in the previous year. Year End Reports shall also include updates to the baseline conditions, projected outcomes and performance metrics for each program element.

The deliverables are:

- Draft Year-end Report(s).
- Final Year-end Report(s) due within 30 days of year end.

Key Personnel:

_____ will be responsible for this task.

PROJECT 1.6 FINAL REPORT

Task 1.6.1 Final Report Outline

The Final Report shall be a public document. If the Contractor will be preparing a confidential version of the final report as well, the Contractor shall perform the following tasks for both the public and confidential versions of the Final report. The Confidential version shall be submitted to the Commission Contracts Officer. Attachment 2 provides the format and content requirements.

Contractor shall prepare and submit to the Commission Contract Manager for review an outline of the Final Report describing the original purpose, approach and results of the program. This report will cover the accomplishments of the entire three-year contract term. Attachment 2: Year-end and Final Report Outline and Format provides a suggested organization for this outline.

The outline shall be submitted to the Commission Contract Manager. The Commission Contract Manager shall review the outline and determine if it is satisfactory. If the Commission Contract Manager determines that the outline is unsatisfactory, the Contractor shall revise the outline until it meets the Commission Contract Manager's requirements. The Commission Contract Manager shall issue to Contractor a written approval of the outline.

The deliverables are:

- ♦ Written Final Report Outline

Task 1.6.2 Draft Final Report for Comment

Contractor shall prepare and submit to the Commission Contract Manager a draft Final Report on the program. The format of the report shall follow the approved outline.

The Commission Contract Manager will review and provide approval or comments on the draft Final Report within 30 calendar days from receipt of the draft. The Contractor and the Commission shall in good faith discuss such issues and the Contractor shall take actions to address the Commission's concerns.

The Contractor shall revise the draft final report incorporating the Commission Contract Manager's corrections and required changes. Upon finding the revised draft to be satisfactory, the Commission Contract Manager shall provide to the Contractor written approval of it.

The deliverables are:

- ♦ Written Draft Final Report

Task 1.6.3 Final Report

No later than 60 calendar days after receiving the Commission Contract Manager’s written approval of the draft Final Report, Contractor shall make final corrections and changes and submit two unbound copies of each version of the Final Report to the Commission Contract Manager. This task shall be deemed complete and accepted by the Commission only when the Commission Contract Manager approves the Final Report in writing. Upon approval, the Contractor shall submit two unbound copies of the Final Report to the Commission Contract Manager.

The deliverables are:

- ◆ Written Final Report

Key Personnel:

_____ will be responsible for this task.

PROJECT 1.7 FINAL MEETING

The objective of this project is for the Contractor to meet with the Commission to present findings, conclusions, and recommended next steps (if any) for the program. This meeting will cover the accomplishments of the entire three-year contract term.

The Contractor shall meet and discuss with the Commission Contract Manager the following contract closeout items:

- What to do with any state-owned equipment (Options).
- Commission’s request for specific “generated” data (not already provided in contract deliverables).
- Need to document Contractor’s disclosure of “subject inventions” developed under the contract.
- Need to file UCC-1 form re: Commission’s interest in patented technology.
- Need to transfer public web site materials (pages, underlying data, and links) to the Commission.
- Other “surviving” contract provisions, such as royalty provisions.

The deliverables are:

- Meeting participation and written documentation of meeting agreements and all pertinent information.

Key Personnel:

_____ will be responsible for this task.

ELEMENT 2

PROBLEM STATEMENT

ELEMENT GOALS AND PERFORMANCE OBJECTIVES

PROJECT LIST

This program element's work scope involves the following technical projects:

Project 2.1.

Project 2.n

PROJECT 2.1

- ◆ The Objectives of this Project are to:

Prior Research:

Baseline Conditions:

Projected Outcome:

The Contractor shall perform the following Tasks:

Task 2.1.1:

Task 2.1.n:

The deliverables are:

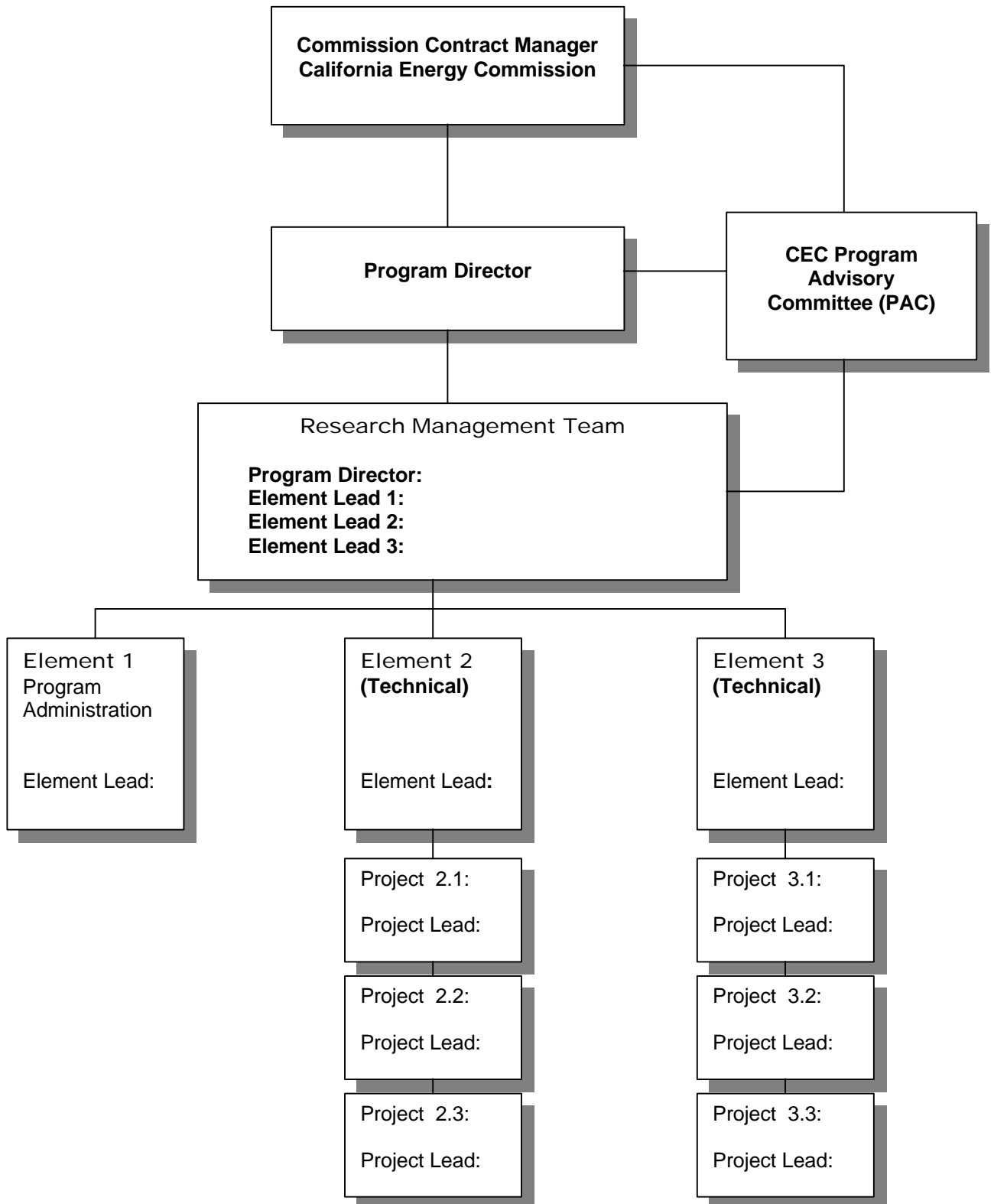
Task 2.1.1

Task 2.1.n

Key Personnel:

EXAMPLE ONLY

The _____ is organized as shown in the tables below:



ATTACHMENT 9

EXHIBIT A WORK STATEMENT

OVERALL PROGRAM GOALS

PROGRAM ELEMENTS

The _____ consists of one administrative element and technical elements

Element 1. Program Administration

Element 2. _____

Element 3. _____

Each element contains multiple projects, and each project contains one or more tasks. Contract objectives, prior research, contractor activities and deliverables are described for each task.

The hierarchy of work to be conducted in this contract is as follows, with quantities listed in parentheses:

Program
Element
Project
Task

The following table diagrams how the _____ will address the PIER Buildings research issues and objectives

ATTACHMENT 9, Exhibit C

EXAMPLE ONLY

SUMMARY TABLE

Abbreviated Form of CEC Issues, Goals, and Objectives

CEC Issue	Technical Goal	Objective	Element
Rapid energy consumption growth inland	Characterize issue and identify highest value future opportunities	Future program plans	6
	Load reduction strategies	Reduce cooling energy use in new and existing buildings	2, 3, 4, 5
	Load management	Increase consumer load management choices	3, 4, 5
		Increase consumer options to shift load	3, 4, 5
		Energy-efficient design and construction strategies for distributed heating, cooling and generation.	4, 5
Non-energy benefits	Characterize issue and identify highest value future opportunities	Future program plans	6
	Quantitative metrics for non-energy benefits	Enable account for non-energy benefits	
	Technologies that are energy-efficient and provide non-energy benefits	Increase functionality and use of energy-efficient products by integrating with non-energy	2, 3, 4, 5
	Develop design methods	Increase functionality and use of energy-efficient products by integrating with non-energy	3, 5
Public health and safety	Characterize issue and identify highest value future opportunities	Future program plans	6
	Metrics, sensors, and controls for health, safety and energy	Building features and construction practices for IAQ and moisture	
		Enable mitigation of health and safety problems	
		Options for sensing and controlling moisture and IAQ	
	Improve energy efficiency and enhance health and safety	Ventilation and construction techniques that mitigate moisture and IA problems.	2, 3, 4
Building and housing affordability & value and state's economy	Characterize issue and identify highest value future opportunities	Future program plans	6
	Software tools	Design and compliance tools for energy standards	
		Simulation software for CA to improve HVAC performance and design	2, 3, 4, 5
		Simplified design tools for CA climates	
	Increase building value	New innovations	3, 5
		Highest value strategies and technologies for retrofit	6
		Strategies responsive to current construction practices (including metal framing)	
		Create downsized equipment for multi-family applications.	4
			2
	Strategies and tools to verify performance and investment value	Tools for M&V (commissioning & diagnostic tools)	
	System approaches that maximize value	Tools to verify installation of insulation, envelope sealing, and duct sealing	
		Integrated, multi functionality equipment and appliances	3
		Increase building functionality and decrease operating costs by design and construction for CA climates	4, 5
		Integration of energy-efficient strategies and products with other building elements	3, 4, 5

ATTACHMENT 9, Exhibit C

PROGRAM ORGANIZATION

The _____ will be lead by the following group of professionals:

Program Director

Commission Contract Manager

Project Leads

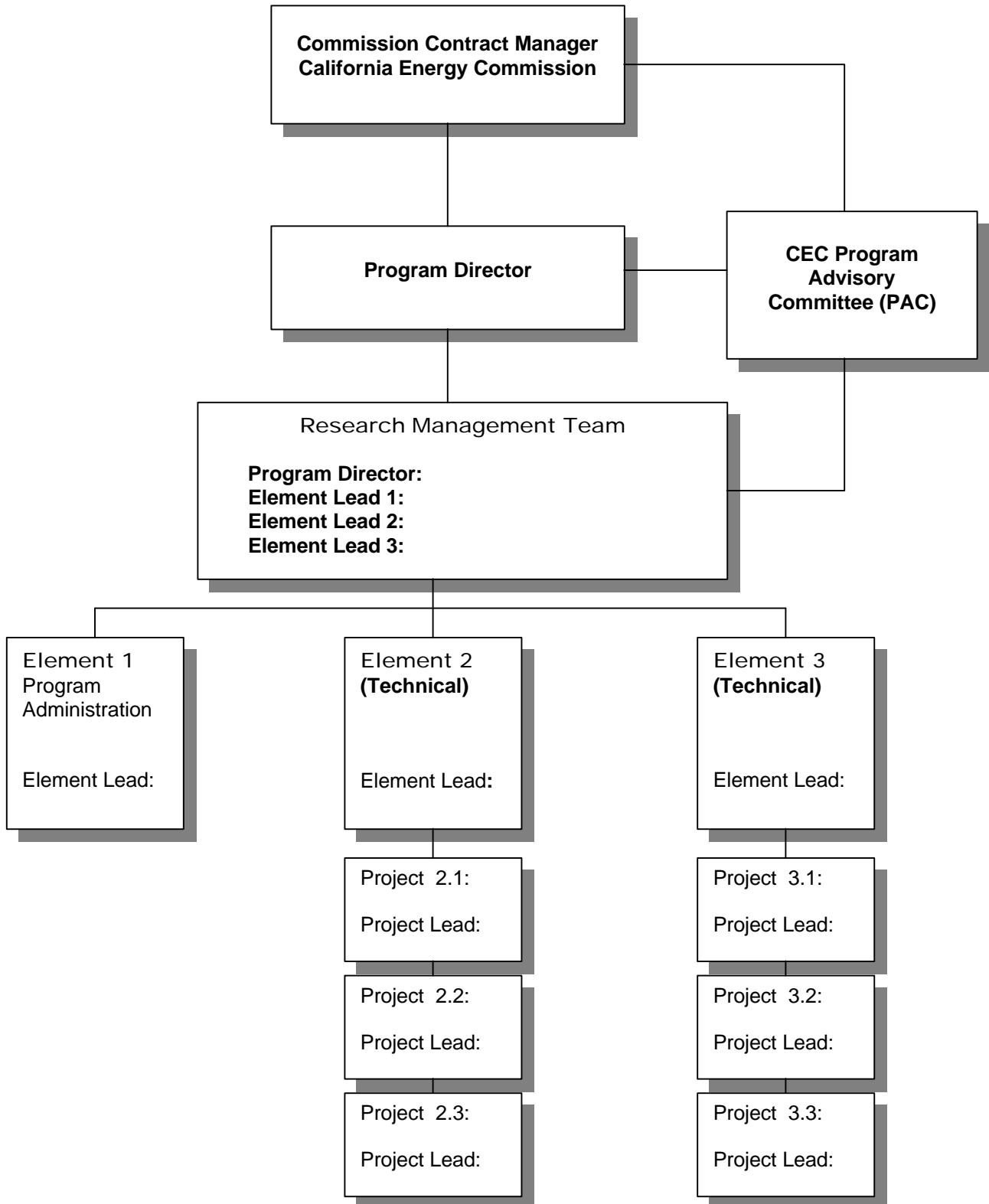
This group will be known as the **Program Management Team**.

ATTACHMENT 9, Exhibit C

EXAMPLE ONLY

Program Organization, Continued

The _____ is organized as shown in the tables below:



ATTACHMENT 9, EXHIBIT B - ELEMENT 1
TASK DELIVERABLES, SCHEDULES

Task No. and Name	Task No. and Deliverable	Start Date	End Date	PIER Budget	Subcontractor
PROGRAM TOTAL BUDGET		4/1/01	4/1/03		
ELEMENT 1					
1.1 Kick-off Meeting	Written documentation of meeting agreements and future contract meetings				
1.2.1 Public Presentation	60-minute presentation				
1.2.2 Program Software Standarization	Monthly Reports				
1.2.3 Finalize Program Advisory Committee	List of PAC members, PAC description, letters of acceptance				
1.2.4 Document Matching Funds	Documentation of matching fund agreements				
1.2.5/6 Identify & Obtain Req'd Permits	Document and obtain required permits				
1.2.7 Program Web Site	Program web site				
1.2.8 Web-based Program Management	Password protected web site that facilitates management of the program				
1.3.1 Critical Program Review Meetings	Meeting participation and written documentation of meeting agreements				
1.3.2 PAC Meetings	PAC meeting schedule & written meeting summaries				
1.4 Annual Technical Briefings	Written summary of each technical briefing				
1.5.1 Progress Reports	Monthly written reports				
1.5.2 Year End Reports	Year-end Reports				
1.6.1 Final Report Outline	Final report outline				
1.6.2 Final Report Draft	Final report draft				
1.6.3 Final Report	Final report				
1.7 Final Meeting	Final meeting				

ATTACHMENT 9, EXHIBIT B – ELEMENT 2

TASK DELIVERABLES, SCHEDULES AND BUDGETS

ELEMENT 2	DELIVERABLES	START DATE	END DATE	CEC PIER REIMBURSABLE	MATCH FUNDS	SUBCONTRACTOR
2.1.0 Project 2.1:						

ATTACHMENT 9, Exhibit C

FEES (Overhead, General and Administration, Profit)

Percentages for each one

List of items included in each fee

Calculation Method

- ☐ Overall Program Budget
☐ PIER Reimbursable Expenditures
☐ Match Funds

ATTCHMENT 9, Exhibit C

Technical Budget Task Detail

Contract Name:

Contract Number:

	Personal Services		Operating Expenses						Other			Total
	Direct Labor	Fringe Benefits	Direct Sub-Services	Indirect Sub-Services	Materials	Equipment	Travel	Misc.	Indirect Overhead	G&A Overhead	Fee	
Project Start-Up Tasks												
Project Start-Up Totals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Technical Activities												\$ -
Task # __												\$ -
Total												\$ -
Task # __												\$ -
Total												\$ -
Task # __												\$ -
Total												\$ -
Task # __												\$ -
Total												\$ -
Project Activity Subtotals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Reporting Activities												
Report Activity Subtotals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Direct Labor	Fringe Benefits	Direct Sub-Services	Indirect Sub-Services	Materials	Equipment	Travel	Misc.	Indirect Overhead	G&A Overhead	Fee	Total
CEC-Reimbursable Totals	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	Personal Services	Operating Expenses	Other	Grand Total								
	\$ -	\$ -	\$ -	\$ -								

ATTACHMENT 9, Exhibit D

LIST OF CONTACTS AND ADDRESSES

<p>Commission Contract Manager:</p> <p>_____, MS- California Energy Commission 1516 Ninth Street, 1st Floor Sacramento, CA 95814 Phone/Fax #/e-mail</p>	<p>Contractor Program Director:</p> <p>Contractor Name Address Phone/Fax #/e-mail</p>		
<p>Commission Contract Officer:</p> <p>_____, MS-18 California Energy Commission 1516 Ninth Street, 1st Floor Sacramento, CA 95814 (916) 654- Phone (916) 654-4423 Fax @energy.state.ca.us</p>	<p>Invoices, Progress Reports and Deliverables to:</p> <p>Accounting Office, MS-2 California Energy Commission 1516 Ninth Street, 1st Floor Sacramento, CA 95814 Phone/Fax/e-mail</p>		
<p>Legal Notices:</p> <table border="0"> <tr> <td data-bbox="212 947 610 1163"> <p>California Energy Commission: Cheryl Raedel, MS-18 Manager, Contracts Office 1516 Ninth Street, 1st Floor Sacramento, CA 95814 Phone/Fax #/e-mail</p> </td> <td data-bbox="834 947 1174 1087"> <p>Contractor: Name Address Phone/Fax #/e-mail</p> </td> </tr> </table>		<p>California Energy Commission: Cheryl Raedel, MS-18 Manager, Contracts Office 1516 Ninth Street, 1st Floor Sacramento, CA 95814 Phone/Fax #/e-mail</p>	<p>Contractor: Name Address Phone/Fax #/e-mail</p>
<p>California Energy Commission: Cheryl Raedel, MS-18 Manager, Contracts Office 1516 Ninth Street, 1st Floor Sacramento, CA 95814 Phone/Fax #/e-mail</p>	<p>Contractor: Name Address Phone/Fax #/e-mail</p>		
<p>Key Subcontractors:</p> <p>(Company Names listed)</p>	<p>Contractor's Key Personnel:</p> <p>(Individual's Names listed)</p>		

ATTACHMENT 9, Exhibit E
Confidential and Intellectual Property List